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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1987

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 5205

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1987, AND FOR OTHER PURPOSES

PART 1 (Pages 1-950)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
DEPARTMENT OF TRANSPORTATION
INTERSTATE COMMERCE COMMISSION
NATIONAL TRANSPORTATION SAFETY BOARD
PANAMA CANAL COMMISSION

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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1987

WEDNESDAY, FEBRUARY 19, 1986

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:07 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Abdnor, D'Amato, Chiles, Lautenberg, and Sasser.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF HON. ELIZABETH HANFORD DOLE, SECRETARY OF TRANSPORTATION

ACCOMPANIED BY RAYMOND A. KARAM, DEPUTY ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

OPENING REMARKS OF SENATOR D'AMATO

Senator D'AMATO [presiding]. In the absence of Chairman Andrews, who is at a Budget Committee hearing with Secretary Shultz and is on his way over, I have been told it would be appropriate to begin this morning's hearing as our gracious Secretary of Transportation, Secretary Dole, is already here.

Let me at the outset extend a warm welcome to you, Secretary Dole. It is always good to have you with us, and I am going to ask that my prepared statement be entered into the record as if read in its entirety, with one addition. I support and I voted for Gramm-Rudman because I support deficit reduction as an essential element to maintaining and preserving the economic health, strength, and well-being of our Nation. In addition, I recognize that even some of our most favored programs will have to share in the discipline of budget reduction.

However, the key word is share. There are those who would place a disproportionate burden of cuts in certain areas. I would have to suggest to the Secretary that I believe that is what OMB has done in the case of transportation. I also recognize that the Secretary is a true courageous defender, as she should be, of the administration. She leads the Transportation Department in a manner which gives great credit both to the administration and to the positions that she advocates. It seems to me, however, that as we look at the 1987 proposals for transportation, that the cuts are disproportionate in weight. In effect, a reduction that this Senator could vote for must be consistent with my understanding that we have to make a shared sacrifice. However, when we look and see a total elimination of operating assistance for the larger transit systems, a 100-percent wipeout, that is not fair.

The proposed fiscal year 1987 budget goes beyond what I think is reasonable. When we see a 68-percent reduction as it relates to the balance of mass transit funding, a total elimination of the general revenue sharing for mass transit, coupled with other cuts that will impact major urban centers, it goes beyond what is fair.

So, I think there will be, hopefully, an accommodation of the needs that are not adequately addressed in this 1987 budget. Yes; some cuts are necessary, but they have to be fair and proportionate so that we do not make some States winners and some States losers. I think that the American people, across the Nation, are prepared to take a measure of pain—that is a mark of the inherent greatness in our system.

Madam Secretary, our chairman has arrived. I turn the chair over to my distinguished colleague, Chairman Andrews.

OPENING REMARKS OF SENATOR ANDREWS

Senator ANDREWS [presiding]. Thank you, Senator.

Madam Secretary, it is good to have you here. Our apologies. As you know, Senator Chiles and I are members of the Budget Committee. We have been up there with your colleague, Secretary Shultz. As a matter of fact, we are trying to get some money out of his budget to transfer over to transportation. We think if we could get a little bit of embassy money, we could maybe keep Amtrak going. [Laughter.]

At least that is the try. Senator Chiles will be here, I hope, a little later on, and I would like to insert his opening statement in the record immediately following mine, along with the Senator from New York's opening statement, and I would like to make a few points.

The budget proposes, Madam Secretary, the total Department of Transportation spending decline 19 percent in fiscal year 1987. This significant reduction follows the administration's goal to spend less for domestic spending, more for defense, and achieve the Gramm-Rudman-Hollings deficit target without raising taxes.

We will, of course, explore these priorities during the series of our hearings, not just with you, Madam Secretary, but with the Office of Management and Budget Director Miller later today before the full committee. We have also talked to Director Miller before the Budget Committee.

We will also focus this morning, I would hope, on aviation safety, since time did not permit a special oversight hearing before the adjournment of the first session. We all agree that 1985 was a tragic year in aviation safety. Some could interpret the National Transportation Safety

Board data to claim 1985 as a safe year based on all miles flown, but that perception I do not think is there with the general public, and I am sure, Madam Secretary, that you feel as we do that one accident is one accident too many.

The interpretation, of course, that it was a safe year is at odds with the National Transportation Safety Board's usual use of departure statistics for the separate flight categories, and we want to go into those matters at some length. This promises, of course, and I know my colleagues share this feeling, to be a challenging year for our subcommittee. I know, however, that we will ultimately reach a compromise on transportation priorities, as we have done every year since I have been chairman, and we very much welcome your ideas and your suggestions, Madam Secretary, as we face the difficult times we are going through.

Certainly we could look back and say an across-the-board freeze would have been a whale of a lot better than the meat-ax cuts we have got with Gramm-Rudman. But we are faced with them now. It may well be that in that other shop, the Budget Committee, we may move to some type of an across-the-board freeze so that we do not have to take the deep cuts out of the programs that I call investment programs rather than spending programs, because certainly air safety is an investment for all Americans. Transportation is not really a spending program. I feel the same way about other Federal programs. These, of course, are the challenges we face. That is why we serve on the Appropriations Committee.

[The prepared statements of Senators Andrews, D'Amato, Chiles, and Lautenberg follow:]

STATEMENT OF SENATOR ANDREWS

The subcommittee will come to order. This morning we begin the fiscal year 1987 budget cycle, and we are delighted to welcome again Secretary Elizabeth Dole to expand upon the President's budget request.

Before I yield to my colleagues for any opening statements, I'd like to make a few points.

The budget proposes that the total Department of Transportation [DOT] spending decline 19 percent in fiscal year 1987. This significant reduction follows the administration's goal to spend less for domestic spending, more for Defense, and achieve the Gramm-Rudman-Hollings deficit target without raising taxes.

We will explore those priorities, not just with you Madam Secretary, but with Office of Management and Budget [OMB] Director Miller later today before the full committee.

We also will focus this morning on aviation safety, since time did not permit a special oversight hearing before the adjournment last December of the first session.

We all agree that 1985 was a tragic year in aviation safety. Some could twist the National Transportation Safety Board [NTSB] data to claim 1985 as a safe year based on all miles flown.

But that interpretation is at odds with the NTSB's usual use of departure statistics for the separate flight categories. We want to go into these matters at some length.

This promises to be a challenging year for the subcommittee. I know, however, that we will ultimately reach a compromise on transportation priorities as we have done every year I have been chairman.

STATEMENT OF SENATOR D'AMATO

Mr. Chairman, it is my pleasure to join you today in extending a warm welcome to Secretary Dole.

For fiscal year 1987, we are going to have to make critical budgetary choices with respect to all federally funded programs, including transportation. Nevertheless, enhancing the safe and efficient transportation of people and goods is the common goal of both the Secretary and all the members of this subcommittee. I look forward to hearing Secretary Dole's justifications and advice concerning the President's proposed budget for the Department of Transportation.

In the past, I have been a leading proponent of Federal aid to public transit. In 1982, during the drafting of the Surface Transportation Assistance Act [STAA], I toiled with my colleagues to create a statute that carefully balanced the competing, yet complementary, needs of our highway and mass transit programs. I believe that the resulting landmark act, signed into law by the President on January 6, 1983, epitomized the spirit of cooperation and compromise that is the essence of lawmaking.

The STAA created a transit block grant for capital and operating costs and funded it with general revenues. In addition, for the very first time, one penny of the Federal gas tax—approximately $1 billion each year over 4 years—was specifically dedicated to discretionary capital transit projects.

When the STAA expires at the end of fiscal year 1986, the DOT budget expects that Congress will have taken dramatic action to alter the nature of the Federal-Aid Transit Program. The administration's clear objective in this regard is to minimize Federal aid to transit. The new program would eliminate all use of general revenue funds for transit. Moneys derived from the "transit penny" would be funneled into the same pot as moneys dedicated to highway use. A new block grant would allocate these moneys to the States for use on either highway or transit projects. Thus, States that have little need for transit funds will be able to use these scarce funds for nontransit purposes. Transit-dependent States will be more hard-pressed than ever before to support their transit services.

This plan is not fair to the transit program or to the highway program. If the required enabling legislation was enacted, it would disrupt transit planning and would work severe hardships on transit-dependent communities. Highway interests also would be shortchanged: although they would gain access to the "transit penny," the overall available funds for highway projects would be reduced by $1.9 billion. Moreover, the proposal is certainly not fair to the American taxpayer who deserves the continued benefit of a cohesive Federal transit program with predictable levels of support.

The elimination of general revenue funding for transit would cut the program by at least $2.1 billion—from the fiscal year 1986 appropriated level—a cut of 68 percent. However, the final cut will be even larger because the commingling of the transit penny with highway moneys will enable States without strong transit needs to channel these funds to highway projects. States that depend on Federal transit aid will find these funds in short supply and subject to invasion for highway projects.

Destruction of the Federal-Aid Transit Program is likely if this budget proposal is carried out. Time and time again we are told that funding transit is a middle-class subsidy, a local responsibility, and not an appropriate role for the Federal Government. Quite simply, this is nonsense: statistics show that it is the poor, the elderly, and the handicapped who most heavily depend on reliable and affordable transit services to get to work, to school, and to carry on their daily lives.

Moreover, the benefits of transit service are no more local than those of many other worthwhile Federal programs, including housing assistance, toxic waste removal, job training assistance, and other programs. Further, in the face of annual budgetary assaults on transit, Congress has repeatedly reaffirmed and recognized a commitment, rooted in sound public policy, to a Federal balanced transit program.

Regional differences and needs are important too. States like New York, New Jersey, and Pennsylvania may receive more transit funds than States such as North Dakota, Iowa, or Oklahoma; but, that is where the funds are needed most. Equal sharing of Federal funds among the States for specific programs may seem like a desirable goal. However, if funds were equally distributed for programs like transit, or military bases, or grazing land subsidies, or hydroelectric power, the obvious result would be waste and gross unfairness rather than the opposite. The budget proposal for fiscal year 1987 pits one State against the other in the simplistic belief that the smaller number of transit-dependent States will lose to the larger number of highway-oriented States. That is not the way we do business in the Senate. I believe that our tradition of recognizing and appreciating the diverse nature of our States is alive and well.

I am also concerned about the lack of funding for Amtrak in the fiscal year 1987 budget. This is another battle that Congress has fought and won many times. During the fiscal year 1986 appropriations process, Amtrak was targeted for termination. Congress chose to preserve Amtrak with a cut of about 10 percent, from $684 million to $616 million. I am sure that my Senate colleagues will again reaffirm their strong commitment to a national passenger rail system and fight this proposal.

There are other items of interest to me in the Transportation Department budget for fiscal year 1987, such as the unwise—and unwarranted—elimination of all Federal support for our State Merchant Marine Academy system, but I will not mention them all at this time. All the modes of transportation—surface, maritime, and aviation—closely affect the interests of the State of New York. It is one of my chief priorities to assure that our budget balancing efforts do not interfere with the safety or our transportation network or its long-term health. We must be willing to make the fiscal sacrifices that are possible and necessary. However, we must continue to remember our obligations to preserve and to improve the Nation's transportation systems.

Mr. Chairman, I thank you for this opportunity to offer my comments. I look forward to today's testimony from Secretary Dole.

STATEMENT OF SENATOR CHILES

I would like to echo the comments of Senator Andrews in welcoming you to our hearing this morning. We all look forward to continuing our very fine working relations with you and the Department this year as we struggle to provide adequate transportation funding in the continuing climate of fiscal restraint.

A number of the Department's proposals appear to be old friends or, perhaps, I should say uninvited guests which continue to reappear each year. The Department's proposal again to provide no funding for Amtrak and the Department's proposal to cut transit funding by two-thirds are issues that were before us last year and in most of the years since 1981. Once again we will also have a familiar debate on the Coast Guard as the Department has proposed to reprogram money provided by the Congress for new initiatives to be used instead in large part for ongoing maintenance needs of the Coast Guard. I rather doubt that the 50 plus Senators that worked with Senator Stevens last year in securing $375 million for needed enhancements to the Coast Guard capital account will welcome the proposals to use $190 million of this funding instead for the routine requirements for the Coast Guard in 1987. These are all matters that we will touch on today and continue to review and examine throughout the next several months as our hearings with transportation agencies continue.

The new budget authority requested by the Department of approximately $6.5 billion is approximately $3.9 billion less than last year. This represents a 37-percent reduction in transportation funding. The administration has proposed large reductions in the other domestic programs. The administration, for example, has proposed a 37-percent cut in health care programs. These reductions are contrasted with defense and foreign aid funding increases of 12 percent and transportation funding, as proposed, represents a mere 2 percent of the Federal budget. In view of the Joint Economic Committee's estimated gap of approximately $450 billion in projected infrastructure spending and the amounts needed between now and the year 2000, the obvious question is raised as to how the Nation will meet the need for new roads, bridges, tunnels, airports, and other infrastructure.

Mrs. Secretary, I look forward to working with you on these difficult issues in the months ahead.

STATEMENT OF SENATOR LAUTENBERG

Madam Secretary, welcome to the subcommittee. It is always good to see you on Capitol Hill, particularly when I can agree with you. Today we have some areas of agreement, but some very important areas of disagreement.

Your budget for fiscal year 1987 contains few surprises; but, it does contain some major disappointments for me. Once again, the administration proposes the elimination of Amtrak and rail passenger service in this country. And it proposes a massive retrenchment in assistance to mass transit.

This budget discounts the needs of States, localities, and individuals who depend on mass transit, whether by Amtrak or State or local transit agencies. It walks away from the Federal Government's historic partnership in providing for an adequate transportation system.

In the densely populated sections of our country, particularly in my area of the Northeast, mass transit is not a luxury, it is an absolute necessity. It is fundamental to our economy and way of life. I cannot support a transportation budget which ignores the needs of my region, one of the most populous in the Nation.

It is hard to understand how the administration can maintain that the quality of life in our urban centers, and the ability of our cities to function, is not a national concern.

Over 20 years ago, there was a candidate for President who suggested that we cut off the Northeast portion of the Nation and let it float out into the Atlantic. I wonder if these proposals don't amount to the same thing. Terminating Amtrak service and reducing mass transit assistance by 67 percent will have a devastating effect on States like New Jersey, which rely on mass transit as an economic necessity.

Last year, in considering DOT's budget, this subcommittee and the Congress refused to set one transportation mode against another or one section of our country against another. The Congress continued to support a balanced national transportation policy, a policy which recognizes the diversity of the Nation and its interdependence. I hope we can strive toward a similar policy again this year.

STATEMENT OF SECRETARY DOLE

Senator ANDREWS. Senator, do you have any further opening remarks you would like to make?

Senator D'AMATO. No, Mr. Chairman.

Senator ANDREWS. If not, we will hold the record open for our colleagues who may well have committee conflicts but, Madam Secretary, we would like to hear from you now. Then, as always, you can summarize your prepared statement in any way you wish.

Secretary DOLE. Fine, Mr. Chairman. I appreciate this opportunity to meet with you and members of the subcommittee. I do have a long statement, a detailed statement for the record. I think it might be important to highlight some of the aspects of the budget in a few moments as an introductory statement.

The important theme of the budget is, of course, the need to reduce the Federal deficit while at the same time ensuring that we have a safe and efficient National Transportation System. Through our transportation programs we are already making a difference, a positive difference for millions of Americans, and that is really how we set our agenda.

For example, our alcohol/drug rule for the railroads ended 12 years of debate, and will prohibit on-the-job drug and alcohol abuse. Rule 208 has spawned safety belt use laws in 17 States and the District of Columbia. For the first time in the 15-year history of 208, lives are now being saved, and I am institutionalizing our extensive air safety monitoring program initiated in 1984.

This budget really defines, in my view, the proper role in transportation of the Federal Government, focusing attention and resources on a National Transportation System that is safe, that is efficient, that is well maintained and effectively designed to meet the needs of the American people. State and local authorities must assume more responsibility for matters that are truly local in nature.

This budget anticipates returning to the private sector those transportation functions that are best managed in the free market. In short, Federal funds should be devoted to those needs that are truly national in scope such as defense and facilitation of interstate commerce and others that cannot be met by State and local authorities.

This approach will move the Nation closer to a balanced budget and produce a transportation system more responsive to the people who use it.

BUDGET REQUEST

Briefly, the 1987 DOT budget provides a vision of the future and an integrated approach to national transportation policy. The DOT budget is a model of how Federal responsibilities can be maintained while the deficit is reduced. By focusing on Federal responsibilities, the department will be able to function in fiscal year 1987 with a budget request of $21.7 billion.

That is, as you indicated, $5 billion less than last year, a 19-percent reduction. There is no lessening of our commitment to safety. There is emphasis on the importance of transportation users paying the full cost of the benefits that they receive.

The budget proposes that 84 percent of requested budget authority be covered by user fees, including fees for many services that are currently provided free of charge by the Coast Guard to commercial and recreational boaters.

We encourage an expanded role for the private sector in providing transportation services by proposing the termination of both Federal Government restrictions and some programs, such as subsidies to Amtrak, that compete with private transportation providers. We seek to increase the flexibility of State and local governments to use Federal trust fund resources through a combined interstate and primary highway program, and we hope to give local governments the ability to better meet their needs through a block grant program for urban and secondary highway systems, bridges, and transit projects.

Within the limits of trust fund receipts from the public, we are committed to maintaining the quality of the Federal-Aid Highway System and improving the National Airspace System. The budget protects safety across all modes of transportation. In fact, there have been significant increases in particular programs.

The budget provides for additional air traffic controllers, for more aviation inspectors, and it increases the number of truck safety specialists. It provides a 200-percent increase in the Motor Carrier Safety Grants Program and continued support for railroad safety enforcement. We have also made certain that adequate funding is available to support our ongoing hazardous materials and pipeline safety programs and the Coast Guard marine safety inspection and drug interdiction programs.

HIGHWAY SAFETY

Finally, in the area of highway safety, $194 million is included for the National Highway Safety Administration programs ranging from occupant protection to intensified efforts to combat drunk and drugged driving. My safety review task force is taking a systematic and objective look at each of our safety programs. I have been very pleased with the work of this task force. Their reports have been coming out on time with a number of significant recommendations which have been implemented in each mode.

The task force's recommendations have gone to the very core of the way these programs work, and as a result, significant improvements in the programs have been instituted, thus again ensuring that a strong commitment to safety is continued.

The budget reflects the theme of privatization. It assumes the sale of the Government-owned freight railroad, Conrail. We have already transferred the Alaska Railroad to the State, and we favor transferring Dulles and Washington National Airports to a regional authority. We also anticipate complete deregulation of the trucking and bus industries and transfer of residual rail functions assumed through sunset of the Interstate Commerce Commission.

There is no question that DOT's budget, like the President's budget as a whole, is a bold initiative. It makes tough choices and, we believe, the right choices to reduce the Federal deficit and maintain the proper Federal role in transportation.

PREPARED STATEMENT

Now, this is just a brief statement of some of the major things in the budget, Mr. Chairman. As I have indicated, I would like to submit a longer and more complete statement for the record.

[The statement follows:]

STATEMENT OF SECRETARY ELIZABETH HANFORD DOLE

Mr. Chairman, I am pleased to have the opportunity to meet with you and members of this Subcommittee to discuss the Department's Fiscal Year 1987 budget request. The important theme of our budget is the need to reduce the Federal deficit, while at the same time ensuring a safe and efficient national transportation system.

Through our transportation programs, we are already making a difference -- a positive difference -- for millions of Americans. For example:

* Our alcohol-drug rule for the railroads ended 12 years of debate and will prohibit on-the-job drug and alcohol abuse.

* Rule 208 has spawned enactment of safety belt use laws in 17 states and the District of Columbia. For the first time in the 15-year history of Rule 208, lives are being saved.

* And I am institutionalizing our extensive air safety monitoring program initiated in 1984.

This budget defines the proper Federal role in transportation, focusing attention and resources on a national transportation system that is safe and efficient, well maintained, and effectively designed to meet the needs of the American people. State and local authorities must assume more responsibility for matters that are truly local in nature. This budget anticipates returning to the private sector those transportation functions best managed in the free market. In short, Federal funds should be devoted to those needs that are truly national in scope, such as defense and facilitation of interstate commerce, and others that cannot be met by State and local authorities. This approach will move the nation closer to a balanced budget and produce a transportation system more responsive to the people who use it.

Briefly, the 1987 Department of Transportation budget provides a vision for the future and an integrated approach to national transportation policy. The Department of Transportation budget is a model of how Federal responsibilities can be maintained while the deficit is reduced. By focusing on Federal responsibilities, the Department will be able to function in fiscal year 1987 with a budget request of $21.7 billion. That's $5 billion less than last year -- a 19 percent reduction.

- There is no diminution of our commitment to safety.
- There is emphasis on the importance of transportation users paying the full cost of the benefits they receive. The budget proposes that 84 percent of requested budget authority be covered by user fees, including fees for many services currently provided free of charge by the Coast Guard to commercial and recreational boaters.
- We encourage an expanded role for the private sector in providing transportation services, by proposing the termination of both Federal Government restrictions such as excessive regulation of motor carriers, and Federally subsidized programs, such as Amtrak, that compete with private transportation providers.
- We seek to increase the flexibility of State and local governments to use Federal trust fund resources through a combined interstate and primary highway program. And we hope to give local governments the ability to better meet their needs, through a block grant program for urban and secondary highway systems, bridges, and transit projects.

- Within the limits of trust fund receipts from the public, we are committed to maintaining the quality of the Federal-aid Highway System and improving the National Airspace System.

The budget protects safety across all transportation modes. In fact, there have been significant increases in particular programs. The budget provides for additional air traffic controllers, more aviation inspectors and an increase in the number of truck safety specialists. It provides a 200 percent increase in the motor carrier safety grants program and continued support for railroad safety enforcement. We have also made certain that adequate funding is available to support our ongoing hazardous materials and pipeline safety programs and the Coast Guard marine safety inspection and drug interdiction programs. In the area of highway safety, $194 million is included for the National Highway Traffic Safety Administration programs ranging from occupant protection to intensified efforts to combat drunk and drugged driving. My Safety Task Force is taking a systematic and objective look at each of our safety programs. The Task Force's recommendations have gone to the very core of the way the programs work and — as a result — significant improvements in these programs have been instituted, thus ensuring our strong commitment to safety is continued.

Overall, the Department's fiscal year 1987 budget proposes budget authority of $21.7 billion, compared with $26.8 billion for FY 1986. We also propose to increase that portion of the budget financed by user fees. In fact, budget authority financed by the general taxpayers will, in this proposal, amount to only about $3.5 billion in fiscal year 1987, a reduction of $5.1 billion from the FY 1986 level.

As to programs in each transportation mode:

FEDERAL HIGHWAY ADMINISTRATION

For Federal-Aid Highways, we are proposing an obligation limitation of $12.4 billion which, with exemptions, will make $12.8 billion available for continuing construction and rehabilitation of highways and bridges. The $12.8 billion includes $2.2 billion for the highway share of a combined highway and transit block grant to be authorized in our proposed Surface Transportation Reauthorization Act. This block grant will enhance State and local governments' ability to make decisions on how best to use Federal funds to meet highway and transit needs. The $2.2 billion of highway funds will be combined with $1.1 billion of transit funds. The total would be available for either highway or mass transit projects at the discretion of State and local jurisdictions. Also included within the Federal-Aid limitation is $50 million for Motor Carrier Safety Grants and a combined Highway and Transit Interstate Transfer Grants program of $500 million. All of the funding requested for the Federal Highway Administration will come from the Highway Trust Fund, financed by the Federal motor fuel tax and other highway user fees.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

To continue the current programs of the National Highway Traffic Safety Administration, we are requesting total budget authority of $194 million. Appropriations of $83.9 million, proposed for Operations and Research, will fund safety programs which include occupant protection, intensified efforts to combat drunk driving, and others. $6.3 million is included for the continuation of the national occupant protection program, designed to reduce fatalities and injuries from traffic accidents.

For safety formula grants to states, we are proposing $110 million. These grants can be applied to a variety of areas, including police traffic services, occupant protection, emergency medical services, and alcohol countermeasures. In addition, $17.9 million is proposed for alcohol safety incentive grants. No new budget authority is proposed for this program in FY 1987. The funds proposed are from carryover balances.

FEDERAL RAILROAD ADMINISTRATION

For the Federal Railroad Administration, we propose a total of $50.5 million. We propose a total of $11 million, together with $4.6 million by transfer, for the Office of the Administrator, including activities formerly funded under the Rail Service Assistance appropriation. We request $35.8 million for railroad safety activities, with enforcement of Federal railroad safety laws and regulations combined with safety-related research and development in upgrading railroad equipment, operations, hazardous materials, track safety, and safety testing.

We are requesting no funds for Amtrak or other rail subsidy programs. Although Amtrak has achieved limited success in improving its operating efficiency, it still accounts for less than 2 percent of intercity common carrier passenger miles. Amtrak has not demonstrated the promise of either future financial viability or benefits to the general taxpayer sufficient to justify continued financing from public funds at a cost of $3 to $4 billion over the next five years, during a period when the Federal deficit must be reduced.

URBAN MASS TRANSPORTATION ADMINISTRATION

In FY 1987, we are requesting $1.22 billion to be funded from the trust fund as contract authority. This will cover all programs administered by the Urban Mass Transportation Administration (UMTA). The policy underlying this proposal is that greater funding at the local level and greater participation by the private sector can and will reduce Federal costs in providing for the Nation's mass transportation needs.

The request includes $1.1 billion for UMTA's share of the new block grant program. These funds will be distributed to the states and local agencies on the basis of legislative formulas, in place of the formula grants program now being funded from general funds. For the first time, state and local agencies will be able to combine funding under this formula program with up to $2.2 billion in highway funding to pay for either highway or transit projects. Small cities and rural areas will be able to use a limited amount of block grant funds for transit operating assistance.

Also included within the $1.22 billion total are $30.5 million for planning grants; $35 million for elderly and handicapped grants; $26.8 million for Administrative Expenses; and $19.5 million for Research, Training, and Human Resources.

We are not requesting funding for the Discretionary Grants program. Continued discretionary funding, particularly funding for major new systems, can result in the development of inefficient, expensive transit systems when transit needs may be accommodated by lower cost alternatives. Concurrently with this budget submission, we are proposing a 1986 rescission of all existing discretionary funding for new systems and extensions, except for two cases where full funding contracts exist. The rescission proposal is for $521 million.

The Administration also proposes that the Washington Metrorail System be treated as any other new system or extension, and we will not request additional Federal construction funding under the Stark-Harris legislation.

FEDERAL AVIATION ADMINISTRATION

The Federal Aviation Administration budget authority request is for $4.8 billion, including $2.8 billion to operate and maintain the Nation's air traffic control and navigation systems, continue expanded airport security activities, establish and enforce civil air regulations, administer the airport grants program, and pay Headquarters administration costs. We are proposing legislation to finance 75 percent of these operating funds from the Trust Fund.

We propose $134.5 million for FAA research, engineering and development activities, and $825 million for planned facilities and equipment procurements under the multi-year NAS Plan program to modernize the National Airspace System. The critical elements of the NAS Plan are proceeding at a pace consistent with the projected growth in air traffic. Major new systems or replacement programs in FY 1987 include modernization of airport traffic control tower facilities, microwave landing systems, improvements to the radar microwave link system, and procurement of doppler weather radars, to replace existing en route installations and to provide coverage at major terminals.

Included in our Budget is an obligation level of $712.5 million for airport planning, development, and improvement grants, and for noise compatibility planning at our Nation's airports.

U. S. COAST GUARD

We are proposing $2.4 billion in budget authority for the Coast Guard, including $1.86 billion for the operation and maintenance of Coast Guard ships, aircraft and shore units. We are also proposing legislation to fund $30 million of this total from the Boat Safety Account with the balance of

$15 million in that account to be available for state safety grants. We are asking for a total of $77 million, together with $190 million to be made available from reprogramming of 1986 Department of Defense appropriations, to fund needed capital improvements, including acquisition and renovation of cutters and equipment for aircraft. Also requested are $65.2 million to increase the Selected Reserve strength to about 13,000 members and $20.5 million for research and development.

We continue to support legislation to permit establishment of user fees for certain Coast Guard services. While estimated collections of $238 million in FY 1987 will represent less than 10 percent of the Coast Guard's overall budget, user fee authority is consistent with our position on the Federal role in transportation and the need to have those special groups who benefit from Federally funded services pay a fair share of the cost.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The St. Lawrence Seaway Development Corporation will use its estimated revenues of $10.6 million, along with $1.4 million of prior year balances, to fund normal operating, maintenance and administrative costs, and to accomplish selected major maintenance and equipment replacement projects. We propose a limitation of $1.99 million for Administrative Expenses.

OFFICE OF INSPECTOR GENERAL

For FY 1987, we propose an appropriation of $27.6 million for the Office of Inspector General to assist DOT management in the administration of its programs and operations by conducting the principal audit and investigative functions for the Department.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Our budget proposes $20 million for the Research and Special Programs Administration to fund programs such as hazardous materials operations and research, and a combined Gas and Liquid Pipeline Safety grants program. We also propose operation of the Transportation Systems Center for half a year in FY 1987 pending its transfer to the private sector.

OFFICE OF THE SECRETARY

For the Office of the Secretary, we request Salaries and Expenses at $56.5 million for the general management and administration of the Department. The total includes new funding of $3.5 million for contract support of the Minority Business Resource Center, along with $0.5 million of prior year balances, and $3 million to continue contractual research and studies on critical transportation issues.

A proposed later transmittal will request additional funds to finance residual functions of the Interstate Commerce Commission (ICC), assuming enactment of proposed legislation to sunset the ICC. Under current plans, most of the rail functions will be transferred to the Department and economic regulation of other modes of transportation will be ended or greatly reduced. The President's Budget tentatively displays $7.8 million and 155 positions under the Office of the Secretary, pending analysis of organizational options.

The budget includes no funding for the Essential Air Service program, which proposed legislation would terminate in October 1986, two years ahead of schedule.

SUPPLEMENTALS AND RESCISSIONS

The Department's budget request also includes FY 1986 proposals requiring action by this Committee. In addition to rescission of UMTA's uncommitted new start funds and obligation limitation mentioned earlier, we are proposing FY 1986 rescissions of FRA funds totaling $58.4 million for rail preference shares, branchline subsidies, and the Northeast Corridor project. Also, we request a FY 1986 liquidating cash supplemental to settle $13 million of prior year defaults and interest under FAA's Aircraft Purchase Loan Guarantee Program.

CONCLUSION

Let me say in closing that the President's budget is a bold budget. It meets fiscal year 1987 goals of Gramm-Rudman-Hollings for reduction in the Federal deficit. As you consider the resource levels in this budget request, I think you will agree that they would permit us to make significant progress toward our mutual goal of a safer, more reliable, and more efficient transportation system, while making the necessary contribution to our Nation's deficit reduction effort.

This concludes my prepared statement. I would now be glad to respond to Committee questions.

FISCAL YEAR 1987 BUDGET REQUEST

Senator ANDREWS. Thank you, Madam Secretary. We appreciate your condensing in the interest of time, but let me assure you your full statement will appear as part of the record, as though you have given every word of it. We appreciate your thoughtfulness in getting it up to us in adequate time so that we can look at it closely, have a chance to study it, and react to it in the questions that we will now ask.

Secretary DOLE. Right, Mr. Chairman. You of course know Ray Karam of our budget office, who has appeared many times in the past, and I am delighted that Ray is here this morning.

Senator ANDREWS. It is good to have you here. Perhaps he can shed some light on the questions that we will try to develop in this initial session with you, Madam Secretary.

The President's budget proposal, of course, as we all know, was structured to achieve Gramm-Rudman-Hollings deficit levels through increased defense and scaled back domestic spending. I certainly am not about to call any budget submitted by a President dead on arrival. The press seems to go overboard on those things, but it seems reasonable to assume that any congressional-White House budget agreement is going to involve some compromise.

If we were to assume that there would be a compromise package allowing more domestic discretionary spending, where would the Department of Transportation apply additional recources?

Secretary DOLE. Well, Mr. Chairman, obviously, I believe in the budget that I have submitted. I worked very hard on this budget to try to really take another look at the Federal responsibility, the Federal role in transportation policy. The DOT budget does reflect my judgment as to a budget that maintains safety across all the modes, that is sufficient, that returns to the private sector some functions better performed there, and that provides more flexibility to the States and localities. At this point, I believe in what I have submitted, so the "what-if" questions, the speculative questions, I think, are to be avoided. At this point in time I would prefer to try to make the arguments as to why I think this is the right budget. It does reflect a number of important themes.

Senator ANDREWS. We totally understand that, Madam Secretary, and as one of the most respected members of the cabinet and a very loyal member of the White House team, we would not expect any other answer. The problem is, if we have an agreement that the White House goes along with, that gives us more money in the transportation sector because much of what we do in the transportation sector as mentioned a minute ago is not spending—it's investment. It would save us, of course, having to have you come back. Because of your unique abilities and the respect all of us have for you, if we get an allocation from that Budget Committee up on the sixth floor, on which Senator Chiles and I both serve, that has more money in it than what we are working with now, we would like your input down the line as to where that should be prioritized.

Secretary DOLE. I would be delighted to work with you on that, Mr. Chairman.

Senator ANDREWS. I am sure you would, and what you are telling me——

Secretary DOLE. This morning let me be an advocate for the budget that is in front of you.

TRUST FUND EXEMPTION

Senator **Andrews**. We understand the ground rules you are operating under, and let me assure you, Madam Secretary, that we undoubtedly will invite you back to testify at a time when you feel comfortable in testifying if, as, and when that budget document comes out, gives us a little bit more wiggle room.

Last year the House defeated a reconciliation amendment to remove the transportation trust funds from the unified budget. In the Senate, Senator Kassebaum, also a member of our Budget Committee, has introduced legislation exempting the airport and airway trust fund from Gramm-Rudman-Hollings. What is the Department's position on removing the transportation trust funds from Gramm-Rudman-Hollings sequestration?

Secretary **Dole**. Mr. Chairman, I really feel that we need a unified budget. The discussion, of course, goes on with regard to taking programs off-budget. You are asking my view on removing the trust funds from Gramm-Rudman. I feel that unified budgets are useful tools for assessing the total impact of Federal spending on the economy, and that our best way to proceed is exactly what we have now, that the trust funds are on budget. I would not favor removing them from Gramm-Rudman. I think that at this point in time we have a massive problem in this country.

The American people have indicated that they want as a top priority this deficit to be reduced and, if we could get to it, a virtual zeroing out of the deficit down the road. The Congress has shown its commitment with Gramm-Rudman. Now, I think, is the time—and Gramm-Rudman certainly does impose the discipline. Now is the time for those hard choices to be made and for the prioritization to take place. I feel that we should have both the trust funds and general funds as a part of this exercise, so I would not favor exempting them from Gramm-Rudman.

Senator **Andrews**. In what material ways are these trust funds different from the Social Security trust fund?

Secretary **Dole**. Well, I think that Congress determined in the Gramm-Rudman approach, that Social Security would be treated differently. I think we all realize the volatility of that particular issue. I would just suggest that with regard to transportation trust funds, they are all treated equally, whether it be the highway fund, the FAA aviation fund, Coast Guard, or whatever, and I think this is the proper way to do it. The funds will be spent for the purpose for which they are collected. When we get our house in order, then we can proceed to do that.

TRUST FUND INTEREST

As far as Gramm-Rudman is concerned, the fiscal year 1987 budget would be deficit-neutral. In other words, under this budget everything that comes in would be spent. This applies in fiscal year 1987 and beyond. Now, you look at the highway trust fund——

Senator ANDREWS. But not the interest that accrues on the trust fund.

Secretary DOLE. Not the interest or any portion of the previous balance. But if you look at the Aviation Trust Fund, you see that, were there not a penalty provision—which was passed, of course, in 1982—you would have very little in that trust fund in the way of an uncommitted balance. Most of it comes from the fact that FAA operations have not been funded from the trust fund at an appropriate level because that penalty comes into play if either F&E or AIP are not funded at authorized levels.

So you have a balance there due primarily to that particular provision and interest that is being collected on that. We have, of course, in this legislation asked for rescission of that particular penalty provision.

Senator ANDREWS. But the authorizing committee has not changed that statute.

Secretary DOLE. No; we are seeking a change there.

Senator ANDREWS. You are seeking a change?

Secretary DOLE. Yes, we are.

Senator ANDREWS. But, Madam Secretary, what you point out is, a trust fund is a trust fund, unless it is politically sensitive. Then it becomes somehow more than just a trust fund.

Secretary DOLE. Well, the Congress has, in its wisdom, determined that Social Security was going to be treated differently. From the transportation standpoint, which is my arena, each of the three or four trust funds are treated exactly the same, and it is my belief that these trust funds should contribute, that this is a mammoth undertaking that we have before us now.

It is time to get down to brass tacks. It is time to get this done. And we can argue and argue over this program or that program, but I do think it is time that we come to grips with this problem, and the Congress, through Gramm-Rudman, is forcing the discipline, and indeed I applaud that attempt to get us all in line here in terms of making the hard choices, making the determinations that are going to bring this deficit down.

DEFENSE-RELATED TRANSPORTATION COSTS

Senator ANDREWS. Well, we share that concern with you. Certainly Senator Chiles and I, as members of the Budget Committee, have voted for an across-the-board freeze. Had it prevailed it would get the deficit under control even faster than Gramm-Rudman does, so we all share your feeling that we ought to get the deficit under control. The question is, of course, how we address it, and of course we are going to be discussing that very much in the weeks and months ahead.

Last year, Congress provided Coast Guard funding through the Defense Authorization and Appropriations Acts. In large measure the Defense bill's operations appropriation was necessitated by the severe reductions in domestic spending assumed in the fiscal year 1986 budget resolution. FAA operates the air traffic control system, 15 percent of which supports the military and other governmental entities.

We are completing and repairing the Interstate Defense Highway System and the Coast Guard's military preparedness activity continues to cost around $100 million annually. In these times of scarce domestic resources, should not the Defense component of the budget support these Defense-related transportation costs?

Secretary DOLE. Mr. Chairman, it is my understanding that Coast Guard and FAA support to DOD is approximately in balance with support provided by DOD to them, in other words, that this is basically in balance. Now, a number of these responsibilities are reimbursed.

Senator ANDREWS. Could you send up that analysis for the record?

Secretary DOLE. Surely. I would be happy to.

Senator ANDREWS. That would be helpful to the committee, to find out where those crosswalks come in.

Secretary DOLE. There is quite a list of them here, and I would be happy to do that.

[CLERK'S NOTE.—A copy of the Department's analyses which are not consistent with hearing testimony is printed as submitted.]

[The information follows:]

U. S. COAST GUARD

A. Payments by CG to DOD

($000)

			FY 1985	FY 1986 (Est.)
1.	MEDICAL:			
	DOD Facilities (In/Out Patient at DOD Facilities)	$14,100		
	CHAMPUS (Military and Dependents at Civilian Physicians)	23,400		
	Payment to CHAMPUS for Former PHS Hospitals	5,500	$43,000	$43,000
2.	AMMUNITION (MIPRs with DOD)		6,000	6,000
3.	Depot Maintenance for C-130		1,400	1,400
4.	Aircraft Interface Devices		675	675
5.	Ordnance Locators/Markers		565	565
6.	NAVAIR Emerg. Light for Helicopters		350	350
7.	ARSC ADP Service		263	263
8.	NAVELEX Maintenance Service		250	250
9.	Intra-District Telecomm. System		250	250
10.	Air Force Telecomm. Planning		190	190
11.	Depot Maintenance Service		95	95
12.	SAR Satellite AID Equipment & Training		64	64
13.	All Other Reimbursable Programs		2,898	2,898
	Total USCG Payments to DOD		$56,000	$56,000

B. Payments by DOD to CG

		FY 1985	FY 1986 (Est.)
1.	Project Late Reimbursement	$ 74	---
2.	NAVMAC Equip. Purchase	221	$ 172
3.	Maint. of Ship Elec. Equip	3,400	4,400
4.	Maint. of Aircraft Elec. Equip	2,100	2,000
5.	Medical Service Reimbursement	3,600	3,750
6.	Security Asst. Training	526	662
7.	Sonar Equip. Maint	3,100	2,200
8.	Air Radar Maint	1,000	1,100
9.	Weapons Maint	3,400	3,600
10.	Bubble Memory Unit Purchases	420	---
11.	Pentagon Liaison Officer	48	---
12.	Icebreaker Support	10,500	10,700
13.	Recompression Chamber Purchase	150	150
14.	Naval War College	63	47
15.	Foreign Military Sales Admin. Ex	58	58
16.	Military Asst. Progr. Admin. Exp	30	49
17.	Security Asst. Inform. Prog	24	28
18.	Security Asst. Billets	435	552
19.	Cinclant Liaison	53	53
20.	Military Sealift Command Liaison	56	63
21.	Defense and Military Readiness Training	---	95,100
22.	Drug Law Enforcement Detachments	---	14,265
	Total DOD Payments to USCG	$29,258	$138,949

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

(Dollars in Thousands)

A. Payments by FAA to DOD

		FY 1985	FY 1986 Estimate
1.	Interphone service	112,939	117,398
2.	Air navigation facility	6,509	6,766
3.	Digital data service	3,667	3,812
4.	Remote control air/ground (RCAG)	16,403	17,050
5.	Radar remoting	8,329	8,658
6.	Facsimile services	535	556
7.	Remote tower, FAA radio circuits	7,861	8,172
8.	Helicopter IFR Operations	49	0
9.	Technology-Advanced Computer Science	543	0
10.	Aircraft separation assurance	2,000	1,080
11.	Communications-data link	671	275
12.	Flight crew performance	325	108
13.	Airport pavement and traction	100	100
14.	Doppler weather radar	2,580	950
15.	Safety fuel evaluation	30	35
16.	Crashworthiness	325	193
17.	Flight safety	160	50
18.	Security	150	350
19.	Support for Tokyo FIFO, maintenance of aircraft and reimbursement for Air Force employee in Frankfort FIFO	114	114
20.	Preparation of handbooks	130	130
21.	Personnel costs	124	127
22.	Military personnel	460	565
23.	Next generation weather radar	8	4
24.	Install brite radar indicator tower equipment	7	35
25.	Replace transmitters and receivers	9	0
26.	Lease ICSS equipment (Type II)	4	12
27.	Provide Integrated Communications Switching Systems (ICSS)	13	36
28.	Maintain FAA UHF and VHF channels	91	95
29.	Operate and maintain microwave equipment	66	66
30.	Provide supplies, utilities and space	109	109
Total		164,311	166,846

B. Payments by DOD to FAA

		FY 1985	FY 1986 Estimate
1.	Electromagnetic compatibility	117	200
2.	Fire safety	109	150
3.	Lightning strikes	65	0
4.	Safety fuel evaluation	28	82
5.	Maintenance and inspection	21	21
6.	Maintenance of air traffic and navigational facilities	222	229
7.	Maintenance of height finder radars, communications equipment, VASI, taxiway lighting and distance marker	8,157	8,213
8.	Maintenance of housing/construction/ hangar	94	103
9.	Maintenance of equipment	189	189
10.	Maintenance of tower and terminal	162	165
11.	Electricity/utilities	423	423
12.	Maintenance of air conditioning and access road	98	78
13.	Supply support	661	859
14.	Repair of equipment	407	560
15.	Calibration of equipment	47	117
16.	Logistics support	91	260

B. Payments by DOD to FAA—Continued

	FY 1985	FY 1986 Estimate
17. Training for Joint Surveillance System	140	140
18. Training	57	107
19. Joint-use of Clinton Sherman Airpark	481	443
20. Training courses	19	25
21. Avionics calibration	150	149
22. Equipment and services related to flight inspection	79	153
23. Calibration of TACAN sets	7	19
24. On call maintenance	22	30
25. Tape transport unit repair	0	8
26. Consolidated NOTAM system	0	2,100
27. Engineering analysis for joint tactical information distribution system	1,233	131
28. R-2508 radar program	3,422	2,581
29. Provide microwave landing system	727	0
30. Provide enroute automated radar tracking	596	204
31. Procure dual channel receivers for long range radar	454	0
32. Provide flight data input output	346	3,485
33. Provide instrument landing systems	224	0
34. Procure ATCRBS antenna (radar)	168	235
35. JSS program-minor construction work	101	143
36. Replace communications equipment	34	11
37. Install consoles at ARTCC	13	11
38. Relocate VOR/VORTAC	6	0
39. Install bright radar indicator tower equipment	27	5
40. Provide hardware interface with ARTCC	3	4
41. Provide automated radar terminal systems	0	276
42. Convert VOR/OME to VORTAC	0	7
43. Install mobile ASR-8	0	8
44. Maintenance services	20	18
45. Services and materials	7	12
46. Modify FDEP printers	0	7
47. Maintenance of subcable terminal	257	250
48. Maintenance of tower cab digital display	0	12
49. Provide radar microwave link	82	124
50. Miscellaneous reimbursements	484	485
51. Air traffic control services	253	284
52. Maintenance of TML and BRITE	9	33
Total	20,312	23,149

FAA OPERATIONS SUPPLEMENTAL

Senator ANDREWS. Sure. The director of the Office of Management and Budget testified on February 6 before the House Appropriations Committee that there would be no administration supplemental request for FAA operations. In responding to my very same question at the Budget Committee's January 22 hearing, Mr. Miller did not rule a supplemental out. We understand the department has such a request under review.

What is the status of that supplemental, and which statement of Office of Management and Budget is, as they say, operational?

Secretary DOLE. Well, earlier, as we were looking at the March 1 sequestration and what this would do in terms of across-the-board cuts for the remaining 7 months, I made it clear that as far as cutting back on FAA's air traffic controllers, security personnel, and inspectors, this would be off limits. These are protected areas. I also said that if, indeed, any support personnel critical to these functions would be impacted, that I would need to come back for a request to transfer between accounts. That would not be a monetary supplemental, but rather to make some transfers, and I think, Mr. Chairman, that there are some definite signs here that that is the direction in which we are moving. There are some problems that I do not think can be addressed without that kind of action.

Now, we are in the process of assessing our spending rates carefully, from the first of this fiscal year, from October 1, for both FAA and Coast Guard, which are two large operations accounts, and the ones that are most impacted since they are labor-intensive accounts. In both areas, they have undertaken activities to try to, for example, slow down some noncritical functions, a freeze on hiring over in FAA, these sorts of things, so that we could try to manage this problem.

But I do think that we will need to have some adjustments, and we are in the process of putting that together now, and I did make that clear both to OMB and to——

Senator ANDREWS. If you decide to go reprogramming instead of supplemental, when will we see this reprogramming request? Last February the subcommittee was told that the supplemental request for increased aviation safety inspection would be provided immediately to Congress. The actual request was received after the House Committee marked up H.R. 3244. What was the holdup back then? Will we get the same kind of holdup?

Secretary DOLE. Let me address that for a moment. We are talking now about the impact of Gramm-Rudman, so it is not even in effect yet. March 1 would be the date at which you would get the across-the-board impact, so I do not think it would be appropriate to go forward with a proposal before that.

GRAMM-RUDMAN IMPACT

Senator ANDREWS. Are you saying that you feel that this reprogramming or the need for a supplemental is all because of the impact of Gramm-Rudman?

Secretary DOLE. I am speaking of the transfer between accounts, which would be in the form of a supplemental, a nonmonetary supplemental, because of the impact of Gramm-Rudman and the potential for impact on personnel, many of whom would be safety-related personnel.

Senator ANDREWS. Well, fine, but whether it comes about because of Gramm-Rudman or whether it comes about because you have found in these areas under your control that a change in funding is needed, the important thing for this subcommittee to have are these documents and these requests. It does not make much sense——

Secretary DOLE. We are in the process of putting it together. There is no delay on this. My goodness. As I say, from the first of October, we initiated activities to try to avoid coming to this point. I said very early to OMB, that if I find as we move through this period of time and as we adjust to Gramm-Rudman and all the rest, that there is some potential impact that would be in the area of——

Senator ANDREWS. When would you send your submittal to OMB?

Secretary DOLE. I do not have a date for you. We are in the process of putting it together right now, so it is just not complete yet.

Senator ANDREWS. Any guess? Or any——

Secretary DOLE. We are working it through now. It should be fairly soon.

Senator ANDREWS. A week, or——

Secretary DOLE. I really do not know, because it is still being put together.

Senator ANDREWS. Well, given the fact that this supplemental and/or reprogramming is in the wings, I would think that it may well be that we have to slip the hearings with the various agencies under your control until we get this information. It does not make much sense to have a budget submission by the President which you are supporting now, then to know from Director Miller and you that we are going to have changes——

Secretary DOLE. We are talking about fiscal year 1986.

Senator ANDREWS. Pardon?

Secretary DOLE. Fiscal year 1986 impact in the remaining 7 months after March 1.

Senator ANDREWS. Certainly, but we have to do the total package, and we ought to have that information on hand before we hold a hearing.

Secretary DOLE. We will try to expedite that for you.

Senator ANDREWS. And you can assure us that you will let the committee know when you send this material to OMB——

Secretary DOLE. Surely.

Senator ANDREWS [continuing]. So we can then look to OMB to get its act in order so we can have it before we have these hearings.

Secretary DOLE. That is fine. We will try to expedite it.

Senator ANDREWS. But hearings, as you know so well with your experience in this town, hearings based on the maximum information possible are the best hearings to have. They are the only worthwhile ones. And if there are some major revisions out there, whether supplemental or reprogramming or whatever else that are hanging out there in abeyance, you are not doing a job holding hearings if you do not have that information.

Secretary DOLE. We will be glad to get that to you, but it is a matter of trying to adjust to the Gramm-Rudman requirement, so we are working through it in a responsible way. We gave OMB notice early. We have done everything possible to try to control costs through slowdowns, through other kinds of reduced administrative costs, less travel, things of that sort in these two accounts. These are two that are most impacted, I think, because they are labor intensive.

Senator ANDREWS. You are not saying that all of the reason for reprogramming and/or supplemental is due to Gramm-Rudman, are you?

Secretary DOLE. Well, I am looking at what may happen—yes, primarily I am talking about the need because of the across-the-board cuts to go back and make some changes between accounts, some transfer between accounts because of the impact of the cuts during the period March 1 to September 30.

ACROSS-THE-BOARD CUTS

Senator ANDREWS. In other words, some of the accounts that you testified on behalf of last year were less critical than other accounts, and an across-the-board account cut now necessitates a revisiting of whether or not one area could stand that kind of——

Secretary DOLE. Mr. Chairman, I think it is a very simple thing. I have protected safety. I have protected FAA inspectors. I am going to be increasing the inspectors this year, next year, and the third year out, by 500 over a 3-year period.

I am going to be protecting the air traffic controllers because we have already announced last September that another 1,000 controllers will be hired this year and next year. For the security personnel, we announced another 200 back in September. All of these are protected functions. Now, early on I was concerned that if we go to across-the-board cuts, if that is necessitated for the latter half of this year, that it could also have an adverse impact on support personnel. We are very labor intensive in these two accounts and their essential functions, and so early on I made the statement, and I am committed to it, that if it appears that we cannot maintain an adequate force of safety-related support personnel, I am going to come back with a request to make some shifts between accounts. We are in the process of putting that together, because it looks to me as though that will be the case, and I will get it to you as quickly as we can do it.

Senator ANDREWS. Well, we appreciate that. That will be very helpful.

Secretary DOLE. That is it.

AIR TRAFFIC CONTROLLERS

Senator ANDREWS. You know, there is magic in numbers, I guess, but there is also a good deal of mystery in numbers, the way they have been coming to us. There is a 300-position discrepancy, as best we can figure it out, between the number of controllers called for in the fiscal year 1986 conference report and the numbers shown in the budget. This stems from the FAA pledge in September 1984 to reach, as you know, the 14,306 level by February 1985.

Both the Administrator's and the Secretary's testimony last February established that this level was attained. However, in September 1985, almost 6 months after the original testimony, the level of controllers was reported to be 14,000 at the time you announced a 500-position increase for both fiscal years 1986 and 1987.

What happened to the 300 controllers between February and September?

Secretary DOLE. Management flexibility. Let me just go back to the time of the strike. That is when the 14,306 was laid out in 1981 by my predecessor, Drew Lewis, who said, as we look to the future, the recovery from the strike will lead us to the maximum number that we will need, which is 14,306 in February 1985.

That number was met. In February 1985, we were at 14,306. Now, by the time that I made the announcement in September, you are right, we were at about 14,000. Now, you cannot lock into concrete an exact number. There does have to be flexibility, management flexibility, because there are retirements, and because there are washouts in the training program. By the way, we have tried to tighten up on that to better match the potential of incoming candidates to particular facilities' needs so that there is not as much of a washout in that program. But there has to be some flexibility. That is what occurred.

Now, the post-strike employment buildup was completed. In other words, that goal was reached in February 1985. Then I looked at it in terms of the future. All right. Where do we go from here? What are the needs going to be as we move out here into the future, because obviously with the economy picking up, economic expansion, with a number of things happening, deregulation producing lower fares in many instances, there are a lot of people flying, frankly, who never thought they would be able to fly, who would not have the means to fly. There are more carriers. We have to plan for the future, and obviously the NAS plan addresses this particular issue, but my view is that in the short range here we are going to need additional controllers. It is not just my view, it is based on the FAA's calculations and the Administrator's consultations with me, that we would need 1,000 controllers at the rate of about 40 a month over the next 2 years, this fiscal year and the next. So, in September I announced the 1,000, and I said at that time from the then-existing level of 14,000 that will take us to 15,000, and that is where we are presently heading.

SHORTAGE OF CONTROLLERS

Senator ANDREWS. Well, Madam Secretary, you know, we have to be a bunch of number crunchers on this side of the table. We have to spend the dollars for the positions that we are told are highly necessary. Sure, this started with Drew Lewis, but last February and March we had this infamous hearing, this—well, the one you-caught-me-with-my-socks-down hearing with the FAA Administrator, and we were told 14,306 was the necessary number.

Now, then, in September you had the press conference announcing the 14,306 was not operational. We did not hear anything in the meantime from the FAA director, and you know, the general public expects us to have an adequate number of controllers out there. We waited time after time after time in taking off from National Airport not because the airport was crowded but because we did not have enough FAA personnel in that center out in Ohio if we were going west.

I sat on the ground in Fargo, ND, certainly not a crowded air terminal area, for one-half hour Monday morning because the FAA has a hold on flights coming into Minneapolis at 7 in the morning, in February. I mean, my God.

Secretary DOLE. We are talking about 2 percent here, whether it is 14,000 or 14,306. The 14,306 was the number laid out in 1981. I do not think that that level overall——

Senator ANDREWS. Well, they testified and you testified last February——

Secretary DOLE. It was met.

Senator ANDREWS [continuing]. That you had achieved it.

Secretary DOLE. That is right. That is correct.

Senator ANDREWS. But you had not achieved it.

Secretary DOLE. We did achieve it. Then we dropped. That is my point. By February 1985, we had reached 14,306. Between that time and September, the number had dropped, and that is where I say things happen in management. I cannot watch every single one of those slots, nor can anyone do that. There are going to be people who decide to retire. You know, you cannot lock it into concrete. You can do your best to achieve it. It was achieved, but the ability of management to oversee and function requires some flexibility.

Senator ANDREWS. Management, Madam Secretary, sees to it that you know of people who are going to retire, and they are replaced in an orderly form.

Secretary DOLE. Well, Mr. Chairman, could we——

Senator ANDREWS. If what you just said is true, that is probably why we had these interminable delays in the past.

AIR TRAFFIC DELAYS

Secretary DOLE. Well, we can talk delays if you would like, because there are a lot less of them.

Senator ANDREWS. Because you were losing 300 that somehow or another you did not replace.

Secretary DOLE. We have done, I think, a very good job of cutting the delays, and I would be glad to talk about all the things that have been done to address that particular problem, but just to complete this issue, I think the important thing is to focus on what it was I said in September. I said I want another 1,000 controllers in the system, not 300, but 1,000, because looking to the future, I think we need more controllers, not only think, I know, based on the facts and the information that FAA has given me.

We want to go for another 1,000 controllers, and that is what we are doing, and we will have at the end of this fiscal year the extra 480, and then the rest in fiscal year 1987, the 500 that will complete that 15,000 goal. You know, I have told you what I can tell you about the subject, that the number was not 14,306 in September, because it did drop after February, and this is a matter of management flexibility. But we do need more controllers, and we will have those additional ones in place at the end of this fiscal year.

Senator ANDREWS. We added the 14,306 February figure to the 500 additional controllers in September for an assumed fiscal 1986 level of 14,800. Now, of course, you inform us the budget assumes 14,500 by the end of this fiscal year.

Secretary DOLE. No, I announced——

Senator ANDREWS. And even using your numbers, why was the January controller work force still only 14,000? When do we fill the additional 500 positions?

Secretary DOLE. OK. First of all, when I announced the extra 1,000, I said it will be above the then existing level of 14,000. I think that is very clear in my statements at the time of the press conference in September, so there is no funny business in this. It is just absolutely clear. We were going from a level of 14,000, which gives us 15,000 by the end of the 2-year period.

Now intervenes the continuing resolution problems, the fact that we did not get our money until the end of December, and the uncertainties over what Gramm-Rudman means, how this is going to sort out. I will give you my guarantee, my word that we will meet the goal of this fiscal year which is an additional 480 controllers by the end of fiscal year 1986.

Senator ANDREWS. We are halfway through the fiscal year. Does that mean we have 14,250 on hand now?

Secretary DOLE. No; it does not, because of the two reasons that I just stated, which is that we did not get the money until the end of December, and then again the Gramm-Rudman difficulties. We do not have 14,200 at this stage. We will have by the end of the fiscal year the full complement that I promised in September of last year.

ADEQUACY OF AIR TRAFFIC CONTROL

Senator D'AMATO. Madam Secretary, a good friend of mine, Congressman Molinari, has been rather concerned about this area. He has done a lot of work on it, met with a lot of the controllers, and I can tell you from his reports to me that air traffic controllers are rather dispirited, and they are overworked. There is danger in the skies as a result of the tremendous strain and stress under which controllers work. Congressman Molinari also has some questions about the numbers of new people we are hiring and whether they are really qualified to assume full controller duties.

I bring up this issue because I know the Congressman has spent a great deal of time—as a matter of fact, he has been out to the FAA facility in Islip, where he has talked to a number of controllers. There seems to be some deep problems relating to the adequacy of current numbers of controllers to the training of new people, and to the tremendous stress that they work under. This is not sensationalism. I have not held a press conference on this.

What would you say with respect to this matter?

Secretary DOLE. Let me give a rather long answer to this question, if I may. If I can ask you to indulge me here, when I came on board as

Secretary of Transportation 3 years ago, I did make safety my top priority, because if you care, in the limited time that you are going to be in a position, about making a difference for people, there is no higher priority than safety across all modes, and I think we have made some major steps in this direction. As I mentioned in my testimony, we got rule 208 on seatbelts out. It has been in the Federal Government 15 years, and it has now spawned these seatbelt laws. We also inaugurated the high-mounted spotlight, the alcohol and drug rule on the railroads, which had been hung up for 12 years, and in aviation, we have initiated a number of major improvements.

I think it might be worth looking at that, and then talking specifically about stress and overtime, and I also have been meeting with controllers without management. I have sat down in many different parts of the country with the controllers, and I think they have been very candid with me and very open, because they know I want to hear what their concerns are, and they know I care about safety, and I am trying to be responsive to their needs. Many of their concerns have been over things like paperwork that got hung up, or not being able to transfer as quickly as they would like, and a lot of things of that sort that we can address. We wanted to do it quickly for them, so we put in a hotline to the Administrator, and that has produced a lot of information. It is a direct line. We have done a number of things like putting human resource specialists into the system, going out and doing surveys, and sitting down with controllers, and we will be doing another survey soon which will address the question of stress and burnout. The earlier one did not define what that word means. GAO did not look at burnout and stress. So we do not have any really scientific data. But I would just add an observation on overtime before I go back to the broader picture. On overtime, the average per controller right now is about 45 minutes a week in the towers, and about 1 hour and 45 minutes in the en route centers.

Now, let me go back to the broader picture. As I say, with this commitment to safety, what happened next? In February 1984, I announced there would be a 25-percent increase in the inspectors, which brought us up by 166 inspectors to the high water mark. That is the highest we have ever had. We announced that level in February 1984 and reached it late that year. Then we initiated a safety task force to go across all modes, and I think everyone who has been involved at all with this task force realizes how dedicated they are. In no way is it a whitewash. They come out with some darn tough recommendations, and they have been implemented by FAA, by FRA, and so on, and they are moving across all the modes.

Then I undertook what we call the NATI review. In addition to the regular inspections that occur, we did this inspection of all the major carriers, 14,000 additional inspections, and all the rest, and as a result of that, 43 carriers received indepth inspection. That then produced and led to a review of our whole inspection system, how we hire inspectors, how we train them, all the rest. That was called our SAFE review. And a number of recommendations came out of that, and we have changed our inspection program to respond to that.

Now, this is a long answer, but I think it is important to understand the commitment here. We are not talking about an area where we just go off and sort of do a little project. There is a very strong commitment across the modes. We have right now, of course, had a bad year worldwide in terms of the number of fatalities, but let me put that into perspective.

Our air traffic control system is the finest in the world. We are trying to move to the highest levels of automation and all the rest through the NAS plan, which will give new safety initiatives more capacity, but we have the safest system in the world. Our Federal standards are modeled after by other countries around the world. We have 14,000 flights a day, 1 million people a day traveling in this country, 99.999 percent without incident or accident or injury.

Now, I think that is a pretty good record. We do have a fine system. That does not mean, as the chairman said, that I am not concerned as he is and as you are and as Guy Molinari is about one accident. One accident is one too many. But I want you to understand, and this is only part of it, the depth of our concern to do everything we can, to leave no stone unturned in the safety area as far as aviation and other modes as well.

ATTRITION OF CONTROLLERS

Senator D'Amato. Let us look at the numbers again. If you take the figure of 14,000 and add new controllers at the rate of 40 per month, does that account for the factor of attrition? I suggest that it should, because here you have tremendous problems in the number of people who are resigning, who are retiring, or who are forced to leave because they are not adequately trained.

Secretary Dole. The FAA, in looking at retirement based on past history, estimates about 500 retirements a year. Last year, the actual number, after all the talk that we are going to have more than ever, that there were going to be huge numbers, the number was only 436, which was below the average yearly number.

Senator D'Amato. If we examine the figure of 500 annual retirements, that means you are going to have to graduate better than 1,000 controllers annually. In other words, you must be adding more than 40 controllers per month to the system. Is that not correct?

Secretary Dole. I will have to check on what the graduation rate is, but there is no question that we will meet that goal. We will be able to meet the goal.

Senator D'Amato. Again, if you are adding 40 controllers per month, that is 480 per year. Let us round it out; that is 500 per year. If you have 500 dropping out, what I am suggesting is that you are just about going to keep even.

Mr. Karam. We have the capability for recruiting and training more than 40 a month, sir.

Senator D'AMATO. What are you doing?

Mr. KARAM. The plans originally were to increase——

Senator D'AMATO. What is your capability?

Mr. KARAM. I will have to supply that for the record. I do not know exactly what it is.

[The information follows:]

Given the present academy initial qualification training laboratory configuration, a maximum annual enrollment of 2,377 can be accommodated. This will provide adequate capacity to meet our end-of-fiscal year 1986 goal of 14,480 controllers. Assuming: hiring 1,260 new recruits and sending them through the academy; training attrition losses of about 390; retirements of 240; 200 career advancement promotions to supervisory and support positions; and approximately 100 transfers from the supervisory staff into the controller work force.

Senator D'AMATO. Well, that is rather important.

Mr. KARAM. It would vary depending on how many instructors you put into the system.

Senator D'AMATO. How many did you graduate this past month?

Mr. KARAM. I would have to supply that for the record.

[The information follows:]

The monthly rate of academy graduates varies depending on the length, starting date, and type of training, but on average we have forecast approximately 100 graduates per month from February 1986 through September 1986.

Senator D'AMATO. Well, I think it is important, Mr. Chairman. I think it is probably one of the problems with our air traffic control system. If the FAA is graduating 40 controllers per month and about 400 to 500 are retiring, this is exactly the problem that some of the controllers are pointing out. The FAA is not making adequate progress in this area. Moreover, there is the question as to what is the FAA's capability to add new controllers? For the record, would you provide us with that information on a monthly basis? It should be substantially more than 40. It seems to me that you must have to be at least 100 per month. Otherwise, you are never going to reach your goal.

Secretary DOLE. Well, the capability is substantially more than 40 a month, but we will simply have to lay out the details for you on that.

Senator D'AMATO. I think it would be important for the committee to give us the information as to how many controllers per month are graduating.

Secretary DOLE. All right.

[The information follows:]

We had 89 graduates last month.

NUMBER OF CONTROLLERS

Senator ANDREWS. Madam Secretary, the thing that bothers this committee is the fact that we were told one set of figures, and we keep getting revised figures that you have not met your goal. There have been too many retirements. The thing is, instead of having the number of controllers on board that we were assured would be on board, we are now told, sorry, we have not met it yet. Last year we went to extraordinary means to give the FAA enough controllers to keep air travel moving safely in this country.

Last August, as I remember, we established a program for reemploying these annuitants, and that provided authority for 300 of them. That is three-fifths of the way to your goal to get this 500 that we already thought we had. How many reemployed annuitants do we have on board now because of our last August——

Secretary Dole. We will be happy to supply that for you, but in 1985 traffic increased 3 percent over 1984. All traffic delays decreased 17.4 percent over 1984. We have a safe system. We are working to improve it in every way we know how. As I have indicated, we did meet the 14,306, and I am trying to increase those numbers, Mr. Chairman, because I do think we do need, looking to the future——

[The information follows:]

As of February 19, 1986, we have 202 reemployed annuitants on board at the centers and towers. Of these, 109 are full performance level controllers; the remaining 93 perform duties in other functional areas such as training, traffic management, military operations, quality assurance, automation.

ARROW AIR

Senator Andrews. We are trying to find out where the numbers are, and we are trying to find out if you can give me the figures for how many reemployed annuitants you have put on board which we were told would give us 300, and we have been told that you have not used that authority. It has not been fully used. Again, this is another reason why we do not have the people in place. You responded a minute ago that we have the safest system in the world. Arrow Air is one of those that we were inspecting.

Secretary Dole. Arrow Air is one that, because of the NATI investigation, we were inspecting. I would like to put this in the perspective of what we have done. We had an extra indepth inspection, and we did look at Arrow Air at that time. We did pick up the fact that some of their recordkeeping was not what it should be, and some of their maintenance had been delayed, and we required that a correction be made, and they were made at that time, and last year there were 226 surveillance contracts between January 1 and the first part of December with Arrow Air.

Senator Andrews. Why did it take until February 8 for the FAA, that is, after the crash to ground Arrow Air when in March 1984, according to information we have been given, Arrow was singled out as the carrier requiring closer surveillance with severe maintenance problems.

What were the other safety incidents involving that same DC–8 that crashed in Newfoundland other than severe maintenance problems?

Secretary Dole. Mr. Chairman, the difficulties with Arrow that were found in the indepth NATI review were corrected. It was one of the 43 carriers that got the very thorough total phase II NATI review. Then they continued to exercise surveillance over Arrow through the year. Now——

Senator ANDREWS. What communication was exchanged between you and the Department of Defense on air charter safety?

Secretary DOLE. I do not have that today.

Senator ANDREWS. Does DOD request of the FAA a report on air charter safety before it enters into a contract with an air charter? Did DOD know when it was hiring this air charter line that it had been singled out in March 1984 as a carrier with very suspect maintenance control?

Secretary DOLE. Mr. Chairman, I would be glad to supply those for the record. I do not have all of the details here.

Senator ANDREWS. Could you provide us with the formal process currently in place to notify DOD of these carrier deficiencies?

Secretary DOLE. Fine.

[CLERK'S NOTE.—The following partial response is printed here as submitted by the Department. No material was provided in answer to the question regarding the specific carrier.]

The formal process of notifying DOD of carrier deficiencies is defined by FAA Order 8000.4E coordinated with Military Airlift Command [MAC]. This order requires that district offices having certificate responsibility for military contract carriers notify the Contract Airlift Survey Office (MAC/L61) whenever safety problems are identified.

MANAGEMENT TRAINING SCHOOL

Senator ANDREWS. Let me ask a couple of other questions, because you mentioned management, the need for replacement of management, and more people going into the system. In the fall of 1984, the FAA released a request for proposal for replacement management training school facility. Bids were submitted. They were extended twice. Every conceivable delay, including apparent misunderstanding with the House authorizing committee, continues to stand in the way of a final selection. What is the current status?

Secretary DOLE. I think there is—let us see. We were in touch with the House Committee last week, and apparently they have not completed their aspect of that, but we do expect it to happen within a few days here.

Senator ANDREWS. It is still awaiting the House?

Secretary DOLE. It is still awaiting House action. That is right.

Senator ANDREWS. We appreciate hearing that. Can you explain the Department's compliance with the directives contained in the fiscal 1985 Senate report regarding that institution?

Secretary DOLE. I am sorry, I did not hear that.

Senator ANDREWS. Can you explain the Department's compliance with the directives contained in the fiscal 1985 Senate report? Is the Department complying with those directives in this matter? You can supply that for the record.

[The information follows:]

Compliance with the committee's directions was assured through the Department's source selection process. Each of the offerors were evaluated by the Source Evaluation Board in the three major categories of technical expertise, business management, and price. Under the technical expertise category each was rated on the quality of their facilities and the learning environment. In the category of business management each offeror was evaluated on the availability of academic opportunities in aviation, business administration, and public administration either on site or in close proximity to their site. The Source Evaluation Board's findings were reported to the Source Selection Official who will make the selection.

Secretary DOLE. Right now it is still a matter of getting that information from the House which then enables us to go forward.

Senator ANDREWS. But you are assuring us that the Department will comply with the directives we put in that report?

Secretary DOLE. Yes; we will certainly make every attempt to do so, and I will be glad to fill you in on that as soon as I hear from the House.

Senator ANDREWS. And in essence what you have said is, you are going to make every attempt to do so, to comply with the directives in that report.

Secretary DOLE. That is right.

Senator ANDREWS. Thank you. Senator Chiles?

INFRASTRUCTURE

Senator CHILES. Thank you, Mr. Chairman. Madam Secretary, we are delighted to have you here today. As you know, the Joint Economic Committee and the private sector Panel on Infrastructure have estimated that a $450 billion gap exists between projected infrastructure expenditures and the amount that will need to be spent between now and the year 2000.

Over $260 billion of this gap exists in the highway and bridge categories, with approximately one-third of the infrastructure spending historically being provided by the Federal Government. The Federal Government's share of this $260 billion gap is almost $90 billion. Clearly, the Nation is going to suffer a reduction in its economic potential unless we can keep pace with the needs for new roads and bridges and tunnels, airports, and other infrastructure.

In view of these needs, we see that your budget proposes to reduce transportation appropriations by about 37 percent, while at the hearing that I just came from this morning with the chairman of the subcommittee, we see foreign aid and defense spending is proposed to increase by about 12 percent in 1987. The 1987 transportation budget as proposed by the administration for fiscal year 1987 will represent just over 2 percent of the national budget.

Do you feel that the Federal Government, Madam Secretary, is providing adequate funding and assistance for the transportation and infrastructure needs of the country?

Secretary DOLE. First of all, we are trying to provide more flexibility so that the States and the localities can make wise decisions based on their particular needs, the local needs, and the concerns of the people that these services are provided for, and I think that is a very important and very positive aspect of this budget, Senator Chiles.

For example, the Interstate/Primary Program will combine the interstate construction funds and the 4R funds with the primary funds in a way that a State can then determine, for example, that it will use all of its eligibility for 4R. That is a possibility. There is also a block grant that encourages what I would call urban mobility planning, in other words, encourages the local community to look very hard at what its real needs are, not just chase after what they might be eligible for in various pots of money and blindly just go after whatever it is that is coming to them that is their due. But rather, they will be encouraged to sit down and wisely, in an integrated fashion, plan for that community, whether it is more in the way of urban highways or whether the money ought to be expended over here on mass transit, to really do some comprehensive integrated planning.

Now, that would mean your urban and your secondary and your non-Federal bridge money and the penny from the trust fund gas tax, $1.1 billion of mass transit money, would all be combined in this block grant. That money can also be used interchangeably, so that you could really increase the amount that you are putting into 4R by using from these other sources if you feel that is where your primary focus ought to be.

INTERSTATE FUNDING

Senator CHILES. Well, I am pleased to see that the Surface Transportation Reauthorization Act which was submitted on February 5 includes the provision to permit new highway facilities to be constructed with toll financing. I think that is helpful. I am disappointed, of course, to see that your proposal for interstate construction—that is the money required to complete the interstate system—drops from $4 billion a year to $1.6 billion a year, and that will be included in the Interstate/Primary Program.

Not only is the funding for interstate reduced, but it is no longer set aside specifically for the completion of the interstate system.

Secretary DOLE. That money, of course, the $1.6 billion to complete the interstate system, is part of the budget level which will also maintain current physical conditions and replace or rehabilitate structurally deficient unsafe bridges on existing interstates and primaries, but let me just mention that what is happening here. You have only 3 percent of the interstate that is not complete. That is about 1,300 miles. So we are really at a point where it is just about complete, and most has already——

Senator CHILES. Unless you have some of that 3 percent, and Florida happens to have about 90 miles of it.

Secretary DOLE. You could then pull up from other sources and put even more money into completing the interstate if you wanted to use some of these other pots of money for that purpose. It would not be counted against you on your interstate money the following year, which it would be now, so there is much more flexibility there depending on what your top priority is to utilize that funding.

Senator CHILES. Well, it seems that your proposal is suggesting that completing the interstate system is no longer a national priority. Instead, it is left to the States' discretion, and that is fine if you have completed your interstate.

Secretary DOLE. Well, most of that 3 percent is under construction now, and I think there is a strong incentive here to go ahead and complete it, because there is 90 percent Federal contribution on the interstate, whereas it is 75 percent on the primary, for example, so there are incentives, I think, that will mean that the States are likely to go ahead and complete the work on the 3 percent.

Senator CHILES. Would you say that your proposal is a downgrading of the importance of the interstate completion by that proposed——

Secretary DOLE. No; it means that there is a little longer period of time for this to occur because we are giving the States more flexibility. I think it is the right way to go. I think that is timely now that the interstate is virtually complete. Provide some flexibility. Let the States make the determination as to what they think is the most important priority, and let the communities decide based on their needs in an urban area rather than the Government dictating through various pots of money and providing a disincentive for centralized planning both at the local and State level.

Senator CHILES. Well, I think flexibility is something that the States will be glad to have, but when you recognize what we are doing overall to State and local government, by Gramm-Rudman-Hollings, by the other moves that we are taking, we are not going to fund revenue sharing, for example. That is one of the items that is to be cut. We are cutting back on all of the other programs, such as community development block grants and UDAG. We are proposing wiping out a number of other programs. So with all of these we are asking the State and local governments to take up the slack, so to speak. At the same time under the guise of saying we are providing additional flexibility, we are still reducing the dollars, and if you reduce the dollars——

Secretary DOLE. The interstate funding, about $2 billion. That is right.

REDUCING HIGHWAY FUNDING

Senator CHILES. And if you agree with the Joint Economic Committee that there are tremendous needs out there for infrastructure, for roads and bridges, then how much can we ask the States and local government to take in? What are they going to really be able to do? They are not going to get revenue sharing money. They are not going to get many of these other moneys we are saying, then we are reducing the highway dollars. Under those, the proposal that I pointed out to you, the Federal Government only takes care of about one-third of those needs to start with that we are talking about by the year 2000.

Then if we are reducing that, that means that the States already have two-thirds of that burden. We are giving more of that burden to them and then saying we are giving them some flexibility. Is that not just sort of wiggle words that we are using?

Secretary DOLE. No, it is not. It is an effort overall to address a major, major problem that this country faces. Going back to the deficit reduction efforts, I do feel transportation has to make its contribution, just as other aspects of our economy have to make their contribution.

So we have tried to protect all the safety functions. This will produce a longer period of time for the Interstate System to be completed. We had expected early nineties. It is more like 1998 now. We are talking, though, about just 3 percent of the system.

There are incentives for work that is already under construction to be completed with the 90-percent participation on the part of the Federal Government. And we do anticipate that even if the entire $1.6 billion apportioned via the cost to complete the interstate is spent on interstate construction, these budget levels will maintain current physical conditions and replace or rehabilitate structurally deficient bridges, and the 4R money is basically at the same level that it was.

So, Senator Chiles, I think it comes down to the fact that we simply cannot continue to do everything we have been doing. The Federal Government does have these massive deficits. The Council of State Legislatures has recently indicated that the States collectively will have $7.1 billion in surplus.

Now, granted, there are others that are going to call on that as well as the transportation area, and I appreciate what you are saying, but we really are at the point of making those tough decisions. We cannot continue to do it all. We cannot. And this budget is an attempt to deal with it in a rational way, in a way that preserves safety and, I think, does it in a way that we can live with, and as I say, we just cannot do everything we have in the past.

Senator CHILES. But we can add 12 percent to foreign aid.

Secretary DOLE. Well, you are outside my area. Obviously, we feel that the budget overall reflects an integrated approach here that we can support, and there will be people who will agree with different aspects of it, but I think from a transportation standpoint it does very definitely stand up under scrutiny.

DADE COUNTY METRORAIL

Senator CHILES. Madam Secretary, as you know, the Continuing Resolution, Public Law 99–190 reads as follows:

> The Secretary of Transportation shall enter into negotiations for full funding contracts with the appropriate local government authorities to construct, and one of those provisions is the north and south legs of the downtown component of Metrorail in Dade County. Provided the Secretary shall commence negotiations with appropriate local authorities to enter into such contracts no later than 30 days after enactment, and shall conclude such negotiations no later than 90 days after enactment.

I understand that negotiations have begun and that Dade County and UMTA officials met last week to review a proposed full funding contract. Do you expect that the negotiations will be successfully concluded within the 90 days set aside by law for these negotiations?

Secretary DOLE. Senator Chiles, I know that that is under way, and that it is being pursued, and there are several areas where specific directions were given to the Department. We are in each instance going forward and complying with the request of the committee.

Senator CHILES. Would you expect that they would be concluded within the 90 days provided by the law?

Secretary DOLE. I do not want to give you an erroneous answer here. I think that we can say that, but let me provide that for the record, whether it be within the 90 days. This is not something that is completely in our control. The States and localities are involved as well. We are trying to meet that deadline. I will be glad to get any more details to you that might be helpful.

[The information follows:]

UMTA is proceeding with negotiations on this full-funding contract. UMTA is reviewing the draft contract that Dade County has submitted and is continuing communication with Dade County officials. The Department fully expects to meet the 90-day deadline for completion of negotiations.

NEW START TRANSIT FUNDING

Senator CHILES. Last year the Congress disapproved a proposed deferral that would have deferred the spending of funds appropriated and earmarked by the Congress in 1984 and 1985 for new start transit projects. In this year's budget I notice that the administration submitted a rescission proposal for these same funds. Under the current law, if Congress does not approve the new rescission proposal within 45 days after the February 5 submission date, the funds are to be released and made available for expenditure.

The administration has been sort of playing chicken with these funds for a number of years. The availability of $22 million of the total made available for Dade County in fiscal year 1984 expires September 30, 1986. Madam Secretary, after the 45-day period expires on the current rescission proposal, assuming Congress has not approved it, do you plan to proceed with the expenditure of these funds, or is there another delaying tactic that will be proposed?

Secretary DOLE. No, we have sought rescission. As you indicate, it is a period of time here, and then we have no delaying tactics in mind. In fact, there are three full funding contracts that we are required to go forward with. And those are under way. We had direction from the Congress on that. That is Miami, Los Angeles, and Seattle. And the negotiations are under way now even as we have asked for a rescission. There have been meetings between Mr. Stanley, the UMTA Administrator——

Senator CHILES. Well, it seems a little inconsistent that you are saying you are complying with the law of the Congress to go forward and do this within 90 days. Then you are filing a deferral proposal to say cut off the funds that allows the States to be able to comply, so you are a little bit inconsistent.

Secretary DOLE. Well, we feel strongly as a matter of principle that these new start funds should be rescinded, and I will be happy to discuss that with the committee.

RESCISSION OF NEW START FUNDS

Senator CHILES. You have felt strongly several years and the Congress feels pretty strongly that we do not rescind them because we have refused to——

Secretary DOLE. Do you know, Senator Chiles, that if the nine projects that we have submitted for rescission go forward, it will mean another about $4 to $5 billion to complete just those? The 50 projects that have been discussed around the country would require at least $20 billion to go forward. You look at new starts, just to take—well, I will not go into WMATA unless you are interested in proceeding to discuss WMATA, but I think there is no question about it.

What we have had is money utilized to start a certain number of systems that are going to require billions and billions of additional dollars to complete. We are at a point where we have got to get this budget under control, and you know, that is just not a responsible way to go about it. I do not know how we could not come forward and ask for rescissions when we are trying to comply with the effort to bring the deficits down.

Senator ANDREWS. But the longer you delay, the more it will cost.

Secretary DOLE. Well, we are saying, do not go with the new starts.

Senator CHILES. Beyond commitments that you have already made, I think you are talking about around $450 million to complete those contracts.

Secretary DOLE. You are talking about the full funding contracts, yes, and we are proceeding to do what the law requires. Ralph Stanley has met with the three systems. His chief counsel is doing the negotiations. He has met with officials of the three systems. And it goes forward. We will comply with the law. But you know, as strange as it seems, that cannot stop us from saying to the Congress, we think all of these ought to be rescinded. We cannot afford any more to do this sort of thing. We simply cannot afford it. And it will take for these nine another $4 or $5 billion, and there are others around the country who want to be counted in, and that is going to be——

Senator CHILES. Again, I think your figures are wrong. I think for the nine to comply with what additional funding, what has already been committed, you are talking about around $450 million.

Secretary DOLE. You are talking about the three or the nine? We were directed just to go forward with the three, I believe.

Senator CHILES. I think that would be the nine. Additional funding now other than what is already committed would be around $450 million, not $4 or $5 billion.

Secretary DOLE. I am talking about to complete all that they want to do. In other words, for Los Angeles, we are talking about 4.4 miles now, but they want to go for 18 miles. And you can see the same thing going on right here in Washington right now, where, by the way, we have put about $4.4 billion into the system at this point.

COASTAL DEFENSE AUGMENTATION

Senator CHILES. Madam Secretary, last September some 50 of my colleagues joined me in a letter that we sent to Senator Stevens suggesting that $300 be made available to the Navy for transfer to the Coast Guard construction account. As you know, as a result of this effort, a new account called Coastal Defense Augmentation was established in the Navy. That new account was funded at $375 million in 1986, and will procure helicopters, patrol boats, fixed wing aircraft, and enhanced radar system for the Coast Guard's fleet of C–130's.

All this equipment, we believe, is important to the Coast Guard to perform its military mission, and during peacetime this equipment is particularly helpful to the Coast Guard in meeting its law enforcement responsibilities. Your budget proposal would request the reprogramming and deferral of $190 million of this Navy money to be used in 1987 to augment the $77.1 million of new appropriations you requested for the Coast Guard construction account.

Essentially once again the Department of Transportation has proposed to use funding provided by the Congress specifically to upgrade Coast Guard capabilities instead for routine maintenance and service life extension programs. Even with this additional $190 million, the Coast Guard funding for 1987 would total $267.1 million or $253 million less than the $520 million originally requested by the Coast Guard.

The $77.1 million that you have requested for the Coast Guard's capital program has been characterized by OMB officials and budget officers at your Department as being primarily for nonmilitary requirements. Do you believe that we should move toward the change in jurisdiction with the Coast Guard's military needs being provided by the Department of Defense where it seems we are better able to obtain financing?

Secretary DOLE. No, I certainly do not. I think to make that kind of division would certainly not be productive. As far as this year's budget is concerned, we are suggesting that part of that $375 million be reprogrammed. That is correct. And that—added to the $77 million—would produce what is needed both with regard to the military and the nonmilitary aspects.

Let me just speak to the overall Coast Guard budget, which has gone up.

COAST GUARD MILITARY ENHANCEMENT

Senator CHILES. Before you speak to that, let me just ask you specifically. Here the Congress decides that we wanted to increase the military enhancement capability of the Coast Guard, so we go to the military portion of the budget, the DOD portion, and we provide these funds out of that for this increased capability in helicopters and radar, all of the things that would be used for the military portion of the Coast Guard budget.

So we get that money that did not come out of your budget. It was not asked for by you. The Congress decided in its wisdom to do that. Now we find that you are proposing to take part of that money that we got from military requirements and using it for routine maintenance as you have cut down your request for routine maintenance.

Now you are telling me you do not think we should go to the military? You have dipped in that military pot. You are in there taking money for routine maintenance, and now you are telling us we do not need any increased help from the military to help the military requirement of the Coast Guard.

Secretary DOLE. Well, once again, this is a year when we are trying to address an overall concern. I will ask Ray Karam, who has got some thoughts on this, to address the question, Senator Chiles.

Mr. KARAM. If I may, Senator, we are proposing in the President's budget the reprogramming of some of the 1986 funds, as you mentioned, from the DOD account, to supplement the availability of capital funds in 1987. It is not for routine maintenance, sir. What the budget reflects is the reprogramming of $190 million of what was originally $375 million that was appropriated in 1986 to be made available in 1987. In our justifications, we point out that this $190 million would be used for Coast Guard activities that are defense oriented. For those Coast Guard activities that do not fall into that category, the President's budget requests an additional $77 million, which would be used for the capital account again, as I mentioned earlier, not for routine maintenance.

The upshot of these requests would be to stabilize the funds available to Coast Guard in their capital account at about the same level, roughly, over 1986 and 1987, and make them comparable to 1985 so that we can continue the major procurements that we have ongoing, the 270-foot vessels, for example, the refurbishing of the 378-foot vessels, all which can be dedicated to defense activities.

MAINTENANCE OR REBUILDING

Senator CHILES. I see $182.7 million of your total, the $256 million, 210-foot medium endurance cutter, midlife maintenance availability, 378-foot high endurance cutter, fleet renovation and modernization, seagoing buoy tenders, service life extension, polar class replacement main propulsion monitoring and control system. All that sounds like routine maintenance.

Mr. KARAM. No, sir, it is not routine maintenance. Midlife rebuilding. What we do is, in the 378's we effectively buy a vessel for another 25 years, which is really not the maintenance account. This is major refurbishing and rebuilding. And all of those items that you mentioned do in fact serve the Coast Guard in times of national——

Senator CHILES. But multiyear contracts have been committed to that for a number of years, have they not?

Mr. KARAM. Yes, sir, we have had these projects going on for a number of years.

Senator CHILES. Now you are going to take the moneys that Congress provided and say to increase the military enhancement capabilities of the Coast Guard and turn around and fund contracts that you have already had ongoing for a number of years. Well, I think that—my understanding is that Senator Stevens will have a meeting on that, and I hope the answer will be no.

Senator ANDREWS. You will be a big part of that answer.

Senator CHILES. If the proposal to reprogram the $190 million of defense funds is turned down, then the Coast Guard construction program is only going to total $77.1 million, with $165.4 million required just to meet the requirements of the ongoing midlife maintenance contracts for the 210- and 378-foot cutters. If the reprogramming is denied, will the Department request a supplemental?

Mr. KARAM. We will have to make other arrangements. Whether the supplemental will be requested remains to be seen. But the $77 million that is requested in the budget will not cover the cost, as you pointed out, of the rehabilitation of the 210's and the 378's.

TESTING FOR ALCOHOL AND DRUGS

Senator CHILES. Madam Secretary, as you have stated, public safety is the No. 1 priority of the Department. I, of course, endorse this commitment. I am concerned that there are some areas which can perhaps go further in assuring the public safety than you have done so far. For example, consider the potential for catastrophe if an airline pilot's performance is degraded by the use of alcohol or drugs. I know that the FAA has strict rules prohibiting the use of alcohol for 8 hours before flying. However, checking and enforcing these rules is a critical issue. As I understand it, actual testing for drugs or alcohol dependence only occurs in connection with the required physicals for pilots every 6 months and after an accident has occurred. It would seem that a system allowing for random or spot checks for alcohol or drug use would be an effective check on these abuses. I notice now we are talking about monitoring football players and baseball players, and giving some periodic tests. After all, everyone going to board an airplane has to go through a metal detector. Should we not check more regularly before entrusting a pilot with hundreds and thousands of lives?

Secretary DOLE. Senator Chiles, we, of course, do have a new rule in place, and as we gain experience from this rule, you know, I would be happy to look at any suggestion that can enhance safety.

Senator CHILES. But you do not have a rule now for spot checking?

Secretary DOLE. No.

Senator CHILES. Should we have such a rule?

Secretary DOLE. As I say, I would be happy to look at that.

Senator CHILES. Thank you, Mr. Chairman.

AIRLINE MERGER

Senator ANDREWS. Madam Secretary, before I recognize Senator Abdnor, in our part of the country air transportation is extremely important, and of course not too long ago Northwest Airlines announced its intention to purchase Republic Airlines. That purchase, of course, has been approved by both airlines, and I think it is working its way through the appropriate channels with the labor unions interested in it, and all of that. Of course, that is coming to you for your consideration and your approval. In fact, it is on your desk now. What is your timetable, Madam Secretary, to act on this request of Republic and Northwest to join together?

Secretary DOLE. I cannot give you a specific date as to when it would be decided, but we will certainly try to do it expeditiously. The procedures are being determined now. For example, a decision on whether it be a full evidentiary hearing, those kinds of things, so we do intend to move quickly on it.

Senator ANDREWS. And your Department will make sure that the traveling public in our part of the country, in North Dakota particularly, is protected, and as far as costs of air travel, this is not going to be something that allows airfares to be increased. You will see that——

Secretary DOLE. We will certainly look at all aspects of the public interest and do this in a thorough and expeditious manner.

Senator ANDREWS. You will also maintain the proper level of service up there, so we will not have a lessening of service.

Secretary DOLE. I understand your concerns.

Senator ANDREWS. But all these points are going to be looked at, and you will give your report back, of course, by—what would you guess in terms of——

Secretary DOLE. I really do not have a date, because we are right now determining what procedures, and of course some would be more lengthy than others, for example, if we had a full evidentiary hearing, but I think in any case this certainly does not have to drag out. We will do it expeditiously, and we look at it from the standpoint, of course, of the public interest.

Senator ANDREWS. Will you allow a time for the city governments of the four cities involved that are now served by Republic and Northwest to be heard by you?

Secretary DOLE. As I say, we are determining what the procedures would be in terms of specific input, but obviously they will have an opportunity to make their views heard, whether it is by written comments or in an evidentiary hearing or whatever the procedure might be.

Senator ANDREWS. But I can assure the mayors of the cities involved that if they will spell out their comments to you, those comments will, of course, be taken into consideration before any action by you.

Secretary DOLE. We will certainly be happy to have their comments, yes.

Senator ANDREWS. Thank you, Madam Secretary.

Senator Abdnor?

ESSENTIAL AIR SERVICE

Senator ABDNOR. Thank you. Madam Secretary, it is nice to have you here today. We all have a lot of questions, not only for your agencies but, I suppose, throughout government. I have the same concerns, of course, about Northwest and Republic becoming one. I hate to think that they would in some way take advantage and increase fares any more than we are already paying out of South Dakota to get to one of the hubs. It costs a lot more to get to the hubs than it does to go beyond them.

I was around when we had airline deregulation, and I had great concerns about what was going to happen to my State of South Dakota. Almost everything that I was afraid was going to happen has. I remember Secretary Coleman sitting in a seat similar to yours when I was in the House. He said, Congressman, we had South Dakota in mind when we deregulated, particularly with those small communities' essential air service. He told me I did not have a thing to worry about until 1988. Not that that really convinced me. Is essential air service going to be eliminated? Last year we discussed this, and put it back in the budget. What are the plans for it now?

Secretary DOLE. The fiscal year 1987 budget would show an end to the essential air service program. That is correct. So that is 2 years early.

IMPACTS OF TERMINATION

Senator ABDNOR. What about the commitment that was made?

Secretary DOLE. Let me go through the thinking on that, because once again this is the effort, of course, to look at every aspect of the budget, to see where nonessential activities might be terminated or might be altered in a way to contribute to this deficit reduction effort. Essential air service was designed as a bridge from a regulated environment to deregulated. We are 8 years down the road now, so that that is basically done in terms of the transition period and the adjustments.

We find that if we were to terminate EAS 2 years earlier, about 87 communities would be impacted in terms of instances, for example, where you would have nonsubsidized service which might not be quite as convenient. In other words, not as often or maybe smaller aircraft. But nevertheless there would be service to that community without essential air service. Eighty-seven of them, where we find there would be a direct impact, 75 of those are within about an hour-and-a-half drive to a community that has air service. Sixty-nine of those 87 communities do not enplane 10 people a day.

There are not 10 people a day using the service. So those are some of the reasons why we felt at this point in time with the transition pretty well complete and a lot more commuter service going into small communities, that the early termination would not have a disastrous impact. As a matter of fact, in many instances as much as $150 per person is the subsidy. It is often double the cost that the traveler pays.

Senator ABDNOR. I have four of those so-called cities that are impacted considerably, and I think they are more than an hour and a half, well, not all of them an hour and a half away, but some of them are. I guess all my fears that I had about airline deregulation have happened. I was coming in the other day and someone wanted to charge me $300 more because I switched from one airline to another. I finally talked him out of it when I got to Minneapolis. That is a one-way trip, but I had to come back to Washington. It has not been good, I will tell you that. And there is going to be a lot more rural States that are going to get hurt a lot worse. We already have commuters coming in now, but they are not exactly regular airlines.

I was also looking at your testimony. Several times you talk about users' fees. Are we going to be cutting clear back on those airports that have already started their construction?

Secretary DOLE. The level is not quite as high as it was last year, but there is still a substantial amount in the AIP account. That is certainly one of the areas as we look to the future in terms of the NAS plan construction.

AVIATION TRUST FUND

Senator ABDNOR. Are we going to take off those fees if we cut back on airport construction? That was the purpose of the users' fees.

Secretary DOLE. Ultimately all the money in the trust fund certainly will be used for the purpose that it is intended. Again, we did have a little discussion on this earlier about whether or not the trust funds should be considered off-budget or exempted from Gramm-Rudman, and I was indicating earlier that I think the trust funds should contribute along with the general funds to this effort to get the deficits down. When we get our house in order, then we can go back to—but the thing is, it would be revenue neutral in fiscal year 1987.

In other words, the money that comes in would be spent. What we are recommending is that we not spend the balance or a part of the balance or the interest which really built up because of the trigger, that penalty provision that was added in 1982. That is basically the only reason that there is that balance in the trust fund. But overall the money ultimately is spent for the purpose for which it is collected.

Senator ABDNOR. So I can tell people to hang on, that as the years go by they will get it?

Secretary DOLE. The level on AIP will be $712.5 million. That is our request to Congress. So it is a little bit less than last year.

Senator ABDNOR. I remember years ago I voted for an increase in the airlines gas tax. I thought they were going to eat me up. I kept telling them, that it is going to help our airports. They will soon be hitting me again, and I just wonder, what do I tell them? That some day they will see this money come down?

Secretary DOLE. Well, as I say, although there is some cut there, overall—let us see. Last year it was $885 million. This year it is $712 million. Yes; that is it. Fiscal year 1987, $712.5 million. Once again, it is a matter of the funds that have been collected ultimately being utilized for the purpose that they are intended, but the reason there are any balances in the fund now are basically because of a penalty provision. That means that FAA operations, rather than coming out of the trust fund, have been coming out of the general funds, and that has caused a level to build up in the trust fund, and interest has been collected on that, and there is this excess amount now. It came about because of that particular situation, and I think what you tell them is, for fiscal year 1987, everything that is collected will be spent. Everything they feed in will be spent. It is this balance from earlier that we are talking about not utilizing immediately, which comes from the penalty.

ICC SUNSET

Senator **ABDNOR**. When you eliminate the ICC, will all responsibilities handled by ICC be done away with, or will——

Secretary **DOLE**. Of course, we have already submitted legislation with regard to truck deregulation and freight forwarders and intercity buses, and that would just be incorporated. We would just continue on the same course. We feel that it is time now to complete trucking deregulation. Basically it is de facto deregulation now, total. We are going to move to de jure. There is a big paper chase going on right now where trucking firms are submitting a lot of paper that does not have a lot of meaning. We feel it is time to end that and to go forward and to complete trucking deregulation. There are some functions, rail economic regulation functions, that would transfer residual functions to DOT under this proposal. Now, that legislation is still being drafted, and we are looking at where the consumer function ought to go. The Justice Department would have the antitrust function, but the rail economic regulation that would remain, for example, addressing the captive shipper problem, would be our responsibility at DOT after sunset of ICC.

Senator **ABDNOR**. Is that the way it is going to work with railroad abandonment petitions?

Secretary **DOLE**. Yes.

Senator **ABDNOR**. It will go to your office?

Secretary **DOLE**. That is right.

Senator **ABDNOR**. Thank you, Mr. Chairman.

Senator **ANDREWS**. Senator Sasser.

SAFETY OF MILITARY CHARTER FLIGHTS

Senator **SASSER**. Thank you, Mr. Chairman. I want to express my appreciation to you, Mr. Chairman, for exhibiting your customary courtesy and allowing me to come here to the subcommittee today.

Senator **ANDREWS**. It will cost you, Senator. [Laughter.]

Senator **SASSER**. I anticipated it might, Mr. Chairman, but it may be something that I will willingly come forward with. I will not take a lot of time of either the chairman or members or the Secretary this morning. I do want to express my profound concern, which I know is shared by the chairman, regarding the tragic air crash that occurred on December 12, 1985, in Gander, Newfoundland, in which 248 members of the 101st Air Mobile Division perished.

That division is stationed in my State or on the border of the State of Kentucky and the State of Tennessee, and many of my constituents died in that tragic air crash. I have been concerned that perhaps the FAA should work more closely with the Military Airlift Command in ascertaining that these charter flights that are arranged by the military conform more closely to at least the FAA minimum standards. I am concerned that the FAA standards are minimum standards of operation as I understand it, and many air carriers, and particularly these air charter carriers, appear to me to be taking these minimum standards as their operational standards.

Mr. Chairman, having said that, I would like, with your permission, to submit the remainder of my rather extensive questions to the record.

Senator ANDREWS. That would be fine, Senator.

Senator SASSER. And ask the Secretary or her colleagues to reply in as expeditious a manner as possible.

Secretary DOLE. Thank you, Senator Sasser. We would be happy to do that.

Senator SASSER. Thank you, Madam Secretary. Thank you, Mr. Chairman.

HIGHWAY BUDGET LEVEL ADEQUACY

Senator ANDREWS. Thank you, Senator, for coming. We appreciate having honorary members of our subcommittee.

Senator SASSER. It is always a pleasure to do business with you, Mr. Chairman.

Senator ANDREWS. Madam Secretary, Senator Lautenberg will return. He went briefly to the Budget Committee. Having discussed the importance of protecting North Dakota's transportation interest in the proposed Northwest-Republic merger, we also are concerned about what happens in highway transportation. The Department recently transmitted surface transportation legislation that contains annual authorizations for the Federal Aid Highway and Highway Safety Programs of $12.9 billion. It includes $2.2 billion that is provided for the Ground Transportation Block Grant Program. How were these program levels determined?

Secretary DOLE. The $2.2 billion is the average amount obligated for those three categories in the preceding 3 years and would be available without the block grant. In other words, that is your urban, your secondary, and your non-Federal bridges, and that is the amount that would be obligated, so it is the combined amount.

Senator ANDREWS. What considerations other than deficit reduction led to your proposing a 17-percent reduction from fiscal year 1986 in highway program budget authority?

Secretary DOLE. Well, the interstate system is basically complete with the exception of the 3 percent that we discussed earlier, and the idea here was to provide more flexibility. Because of the flexibility, it is still possible to put additional funds into the completion of the interstate, depending on the priorities of the State level and local level with regard to their total grant. So there is additional flexibility built in there. We do have just the 3 percent now and 1,300 miles that remains. As I mentioned earlier, much of that construction has been started, and there is an incentive to complete it because of the 90-percent Federal contribution, but overall it is an effort to try to make a contribution to deficit reduction.

Senator ANDREWS. Are these program levels adequate to meet highway needs?

Secretary DOLE. I think they are, very definitely. We have worked this through carefully. I think the fact that extra flexibility is provided is a real plus in this program. I anticipate that better planning will occur through the block grant, for example, because it will encourage looking at transportation in an integrated manner at the local level instead of going after all available funds wherever they are just to be sure you get everything that is coming to you. That does not really provide an incentive to plan carefully.

TRANSFER OF PAN AM PACIFIC ROUTES

Senator ANDREWS. Madam Secretary, on October 11, your Department announced its approval of the transfer of Pan Am's Pacific route to United Airlines. On November 12, I joined other Senators in a letter to the President asking that U.S. negotiators agree to no concessions to the Japanese in exchange for Japan's approval of United as the substitute carrier. We have not gotten anything in addition, and we should not therefore yield anything to them?

Secretary DOLE. Absolutely.

Senator ANDREWS. What is the status of the transfer?

Secretary DOLE. It is completed, and without any additional concessions, just as you stated. I agree with you thoroughly on that, and we held very tough on that.

Senator ANDREWS. Now, what is the status of a route proceeding to select a third U.S. carrier to replace United?

Secretary DOLE. Within a short time, and I do not have an exact date on that, I was checking that just this morning so that I could have that for you, but within a very short time, a proceeding will begin, I would think within a matter of a couple of weeks.

Senator ANDREWS. What U.S. gateways might gain Pacific service as a result of this proceeding?

Secretary DOLE. Well, I cannot give you specifics on that at the moment, but overall what we looked at here is the fact that this does enhance the traveling public's service generally, no question about it, because you have Pan Am, which was really in difficult financial straits. United, on the other hand, constrained to this one flight a day over the Portland/Seattle-Tokyo route, and, with the great amount of growth that we expect in the Pacific area, I think there is no question we are going to have a much stronger U.S. flag presence, and it is going to provide better consumer services. I will be glad to get you more details.

[The information follows:]

By Order 85-11-67, served November 7, 1985, we made final our decision in the *Pacific Division Transfer Case*, Docket 43065, approving the acquisition of Pan American's Pacific Route Division by United Airlines. However, we expressed concern that, by combining United's Seattle/Portland-Tokyo authority with Pan American's Japan authority, the transaction would result in a reduction in the number of U.S. carriers serving Japan and might not maximize the benefits that the United States has achieved in its bilateral relationship with Japan. Therefore, as a condition of approval, the decision called for the institution of a route proceeding to determine whether another air carrier can and should be authorized to replace United on the Seattle/Portland-Tokyo route. Subsequently, Eastern petitioned the Department to institute that proceeding and to establish a procedural schedule for the proceeding.

We have not made any decision on the timing of this case. One option we are considering is whether to institute this case after completion of the *U.S.-Japan Gateways*

Case, since information elicited during the latter case may be critical in deciding the issues in a Seattle/Portland-Tokyo route proceeding.

Under a Memorandum of Understanding [MOU] signed May 1, 1985, the United States may select up to three new gateways and carriers to serve Japan. The new service may begin as early as April 1, 1986. No more than a total of 10 roundtrip frequencies per week may be provided on these three routes during the first year.

This increases to 18 in 1987, 20 in 1988, and 21 in 1989. No single route may receive more than 7 roundtrips per week. The MOU allows us to substitute a small package carrier for one of the three new combination services, but the small package service could not be inaugurated until April 1, 1987.

On November 13, 1985, we instituted the *U.S.-Japan Gateways Case* to select two cities to receive new combination service under the MOU, and the carrier(s) to provide that service. In the instituting order we also indicated our intention to exercise the option of substituting a small package service for the third combination service route, and that a separate case would be instituted in April 1986 to select the carrier to provide that service.

This case is currently before one of the Department's administrative law judges. The oral evidentiary hearing is scheduled to begin on February 25, 1986. The applicants and their proposed routings are: *American*, Dallas/Ft. Worth-Tokyo and Los Angeles-Tokyo; *Continental*, Los Angeles-Tokyo and Honolulu-Nagoya; *Delta*, Portland-Tokyo; *Eastern*, Los Angeles-Tokyo; *Hawaiian*, Honolulu-Tokyo and Honolulu-Nagoya; *Northwest*, St. Louis-Tokyo and Dallas/Ft. Worth-Tokyo; and *United*, Washington-Tokyo. The judge has been urged to expedite the proceeding. After the judge's recommended decision [R.D.] has been issued, the Department has 90 days to issue a final decision on review of the R.D., which is subject to the President's review.

The instituting order indicated certain preferences regarding the decision in this case. We indicated that these new route opportunities would probably be most effectively utilized if two different carriers were selected and the 10 frequencies available in 1986 were split evenly between the two new routes. However, parties are still free to argue that a single carrier should be selected for both gateways and/or that the available frequencies should not be evenly divided between the two routes.

In addition to selecting two primary carriers, backup carriers will also be selected to replace the primary carriers if they fail to inaugurate service or drop out of the market. A backup carrier need not necessarily be proposing to serve the same city as the primary carrier. Thus, the judge has been asked to rank the four best gateway/carrier combinations—the first two for primary authority, the next two for backup authority.

We also plan to institute the *U.S.-Japan Small Package Service Case* in April 1986 and set it for hearing before an administrative law judge. This will give us ample time to complete the proceeding so that the selected carrier may begin service by April 1, 1987, the earliest possible date under the terms of the MOU.

In indicating our intention to reserve the third MOU route for a small package carrier, the Department noted that the development of small package delivery service in the United States has revolutionized business communications and that the MOU provides the first limited opportunity for such a carrier to participate directly in the U.S.-Japan market. Given the keen interest in exploiting this opportunity, the unique character of the service, and its potential attractiveness to consumers in this highly commercial market, we concluded that the public interest would best be served by allocating one of the three new MOU routes to such a service.

Senator ANDREWS. That would be helpful, because I would suspect that we are going to see some more of these kinds of actions in the future. Another thing, Madam Secretary. If we have that allotment of a third airline, again, we go back to precisely where we were before United replaced Pan Am. We had three American airlines over the Pacific. Will we have to or will we give concessions to the Japanese to get us back that third airline?

Secretary DOLE. Well, I would really rather not get into commenting on all of that when we still have that route case ahead of us. Let me just say that I agree with you completely on the fact that there should not be any extra——

Senator ANDREWS. When we get back to parity with them, fine. Then if we ask for more than the three, more than we had before, that would be the only time that we would entertain concessions to our trading partner, the Japanese.

Secretary DOLE. But I do want to proceed carefully in this area rather than make a statement off the cuff on this.

Senator ANDREWS. Would you agree, Madam Secretary, that any changes to the existing United States-Japan air transport agreement should be delayed until the full impact to United States interests has been assessed?

Secretary DOLE. Well, we are moving along with discussions, and I do not think that we have to hold up.

Senator ANDREWS. No; but we are not going to take any precipitous action until the U.S. interests are given time to be heard.

Secretary DOLE. Right.

SUBMITTED QUESTIONS

Senator ANDREWS. Good. Thank you very much, Madam Secretary. I have a number of other questions. Senator Lautenberg is tied up in the Budget Committee, and rather than hold you from your busy schedule, let me say that I will submit the rest of these questions for the record, and I am sure other members of the subcommittee will have questions to be submitted for the record as well.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

TRUST FUNDS OFF-BUDGET

SENATOR ANDREWS: In what material ways are these trust funds different from Social Security? (N.B. President Reagan Jan. 7 press conference):

> I have never thought that Social Security plays a part in the deficit: It doesn't because Social Security is supported by its own tax, and that tax can't be used for anything else.

Why should the users be asked to continue to pay into "dedicated" funds when the FY 1987 budget proposes that trust fund interest be held in the Treasury?

ANSWER: There is a major programmatic difference between DOT's trust funds and Social Security. While millions of Americans depend on Social Security for a significant share of their livelihoods, this is not the case with DOT trust funds. For this reason, it is acceptable to adjust the rate of drawdowns from DOT trust funds (to a level more in line with annual receipts) in order to help meet deficit reduction targets, while this would not be true with Social Security. In either case, however, all receipts would continue to be dedicated to a specific purpose, and "can't be used for anything else," as the President points out.

Expenditure of Treasury interest payments places an additional tax burden on the general taxpayers, virtually all of whom are also users of DOT programs and therefore contributors to its trust funds. In all instances where interest accrued in DOT's trust funds, it is available for use at a later time, as the deficit problem is resolved.

DEFENSE FUNDING

SENATOR ANDREWS: Last year, Congress provided Coast Guard funding through the Defense Authorization and Appropriations Acts. In large measure, the Defense Bill's operations appropriation was necessitated by the severe reductions in domestic spending assumed in the FY 1986 resolution.

Federal Aviation Administration (FAA) operates the Air Traffic Control (ATC) system, 15% of which supports the military and other governmental entities; We are completing and repairing the interstate and defense highway system; and the Coast Guard's military preparedness activity continues to cost around $100 million annually. In these times of scarce domestic resources shouldn't the defense component of the budget support these defense-related transportation costs?

ANSWER: The premise of this question appears to be that since Defense is budgeted for 3% real growth in FY 1987, it could absorb some of DOT's program costs, which could be rationalized on the DOD share of benefits from these programs. We cannot support that premise. If DOD were required to absorb these costs within their FY 1987 budget total, there would not be 3% real growth in Defense and one of the Administration's principal objectives would not be met. If, on the other hand, an appropriate amount were added to the DOD budget to insure retention of 3% real growth, there would have to be an offsetting reduction to domestic programs (such as DOT) and nothing would be gained.

FY 1986 AC&I SPENDING PLAN

SENATOR ANDREWS: Provide for the record a detailed FY 1986 Coast Guard Acquisition, Construction and Improvement spending plan, net of Gramm-Rudman-Hollings cuts and what we are told will be a Navy proposed deferral. Compare this mix of equipment with Congressional Instructions by this subcommittee and the Defense subcommittee. Provide an explanation for each equipment item increased or decreased.

ANSWER: Submitted for the record are three attachments, the first of which (3 pages) details the Coast Guard's spending plan for the $217.3 million in FY 1986 funding provided directly to its own Acquisition, Construction and Improvements (AC&I) appropriation. The second attachment (1 page) details the Coast Guard's spending plan for the $375 million provided in the Navy's Coastal Defense Augmentation (CDA) for "... procurement of vessels, aircraft and equipment for the Coast Guard." The third attachment (3 pages) provides a project by project justification for each of the projects involved in the CDA spending plan. Although presented as two separate proposals (one for each funding source), they are mutually dependent and together comprise one spending plan.

The President's FY 1987 budget request seeks new budget authority of $77.1 million for the AC&I appropriation. This funding level, when combined with the proposed spending plan, will: (1) achieve a leveling of Coast Guard AC&I funding over the two fiscal years 1986 and 1987; (2) strike a better balance between current projects and future needs; (3) allow the Coast Guard to match all projects with more realistic execution and delivery schedules; and (4) avoid carryover problems experienced with previous DOD supplemental funding, for which the Coast Guard has received Congressional criticism.

The spending plan allocates more than $155 million to the Congressionally directed projects for the CDA funding. It also would reprogram $237.4 million of the CDA funding, including $36.4 million for existing projects which are identical to the Congressionally directed projects (part of the $155 million above). These monies would be used for two purposes: (1) $47.2 million will go to restore Coast Guard projects that were not funded due to reductions in the FY 1986 AC&I appropriation; (2) $190.2 million will fund FY 1987 projects not covered by the FY 1987 AC&I level of $77.1 million. A deferral of the $190.2 million to be used in FY 1987 is a necessary adjunct to this spending plan.

Reprogrammings required by this spending plan involve projects which are all closely aligned with the spirit and purpose of the CDA appropriation in that they directly support the Coast Guard's military readiness and law enforcement missions.

These adjustments are necessary to fund critical, planned and ongoing projects within the Coast Guard's existing overall capital acquisition plan. Several of these projects (FRAM, HH-65A) are already under contract and for others contract awards are imminent. Lack of funding for these projects would result in significant contract penalties in some cases or cause serious delay in projects which provide basic support for fundamental Coast Guard programs. The most severely affected would be our major cutter and aircraft projects, which would impact heavily on the defense readiness posture of our forces.

U. S. COAST GUARD
SPENDING PLAN
ACQUISITION, CONSTRUCTION AND IMPROVEMENTS ACCOUNT

Project	FY 1986 Budget Request ($000)	Revised Spending Plan ($000)
Vessels:		
Survey and Design - Boats and Cutters	1,500	1,429
378' High Endurance Cutter (WHEC) - Fleet Renovation and Modernization (FRAM)	72,300	55,548
Northwind Safety and Supportability Upgrade	5,500	4,859
210' Medium Endurance Cutter (WMEC) - Midlife Maintenance Availabilty (MMA)	25,800	0 (2)
River Tender (WLR) Replacement - Phase I	4,600	0 (2)
Aircraft:		
Short Range Recovery (SRR) Helicopters (HH-65A) Procurement Escalation/Support	31,600	22,868
SRR Helicopter Forward Looking Infrared (FLIR) Sensors ..	6,000	0 (3)
HC-130 Outer Wing Replacement	1,000	953
HU-25A Spares Provisioning	12,000	11,434
HC-130 Forward Looking Airborne Radar (FLAR) - Phase III .	16,958	0 (1)
Command, Control and Communications:		
Standard Terminals for Vessels - Phase II	3,600	3,430
Dillingham, AK - Northern Bristol Bay VHF-FM Coverage ...	500	476
Information Resource Management Systems	1,500	1,429
Standard Automated Accounting System (SAAS) - Phase II ..	3,000	1,906
Secure Voice Communications Capability - Phase II	4,800	0 (2)
Shore Facilities:		
Minor AC&I Shore Construction Program	7,100	6,584
Survey and Design - Shore Facilities	5,200	4,526
Traverse City, MI - Air Station - Groundwater Purging ...	1,800	1,715
Kodiak, AK - Support Center - Replace Health Care Facility	6,400	6,098
Alameda, CA - Support Center - Replace Seawall and Provide Moorings	8,300	7,908
Seattle, WA - Support Center Renovation - Phase I	3,850	3,668
Petaluma, CA - Training Center - ET/TT Instruction Building	14,200	13,530
Portsmouth, VA - Command, Display and Control (COMDAC) Support Facility - Phase IV	3,800	0 (3)
Minor AC&I Shore Construction Program - Unaccompanied Personnel Housing (UPH)	1,100	896
Public Family Housing	10,000	9,528
Long Beach, CA - 270' WMEC West Coast Shoreside Support ..	5,900	5,622
San Francisco, CA - Station Fort Point - Wave Suppression System	2,300	2,191
Grand Haven, MI - Rebuild Station	2,200	2,096
Short Beach, NY - Rebuild Station	2,700	2,573
Aids to Navigation:		
Lighthouse Automation and Modernization Project (LAMP) ..	2,000	1,906
Minor Aids to Navigation Solar Power Conversion	1,300	1,239
Waterways Aids to Navigation Projects	2,700	2,573
Demopolis, AL - Update Aids to Navigation Facility	2,000	1,906
Port Clarence, AK - Relocate LORAN Station	3,100	2,954
Peoria, IL - Consolidate Aids to Navigation Facility	1,700	1,620
New Orleans, LA - Vessel Traffic System (VTS) Surveillance - Phase II	3,100	2,954

U. S. COAST GUARD
SPENDING PLAN
ACQUISITION, CONSTRUCTION AND IMPROVEMENTS ACCOUNT
(continued)

Project	FY 1986 Budget Request ($000)	Revised Spending Plan ($000)
Antenna Replacement for LORAN Station Yap	1,700	1,620
LORAN-C Solid State Transmitter Site Preparation	700	667
Personnel and Related Costs	19,250	19,250
Totals	303,058	207,956*

(* $217,300 appropriated, less $9,344 sequestered by P.L. 99-177)

Notes:

(1) indicates a project which is funded by the DOD Coastal Defense Augmentation account as earmarked by the DOD Conference Report.

(2) indicates a project which is proposed for funding through reprogramming part of the DOD Coastal Defense Augmentation account (see enclosures 2 and 3).

(3) indicates a project for which no funding is proposed at this time.

DISCUSSION

The Coast Guard's FY 1986 AC&I Appropriation was $86 million below the level requested by the President's budget. The spending plan proposed by this enclosure accommodates that reduction by deleting 6 projects from the FY 1986 Budget Request list of AC&I projects.

However, 4 of those deleted projects still require funding. One of them was specifically earmarked to be funded from the Coastal Defense Augmentation account. Three others are closely aligned with the spirit and purposes of the Coastal Defense Augmentation account. Therefore, the overall spending plan provides for funding of those 4 deleted projects by reprogramming of some of the FY 1986 Coastal Defense Augmentation account funding which was provided to the Coast Guard by P.L. 99-190. The proposed reprogramming is shown in the spending plan for the FY 1986 Coastal Defense Augmentation funding (see enclosure 2).

Of these 4 deleted projects which still require funding, one was specifically earmarked by the Conference Report which accompanied House Joint Resolution 465 for funding by the Coastal Defense Augmentation account, namely:

- HC-130 Forward Looking Airborne Radar (FLAR).

The other 3 reprogrammed projects are vessel and secure communications initiatives, directly supporting the Coast Guard's defense readiness and law enforcement missions. They are:

- 210' Medium Endurance Cutter (WMEC) - Midlife Maintenance Availabilty (MMA);

- River Tender (WLR) Replacement;

- Secure Voice Communications Capability.

U. S. COAST GUARD
SPENDING PLAN
COASTAL DEFENSE AUGMENTATION ACCOUNT
($000)

Project	DOD Conference Report Levels (Units)	Reprogramming Proposal			Reprogrammed Totals (Units)
		Shift to Unfunded FY 1986 Projects	Shift to Proposed FY 1987 Projects	Spend as Earmarked in DOD Conf. Rpt.	
Projects Earmarked by DOD Conference Report: ($155,625)					
Medium Range Recovery (MRR) Helicopter	41,000 (3)	0	0	41,000	41,000 (3)
Buoy Tender (WLB) Service Life Extension (SLEP)	70,000 (5)	0	0	14,100	14,100 (*)
C-130 Aircraft	72,000 (4)	0	0	0	0 (0)
140-foot Icebreaking Tug	20,000 (1)	0	0	0	0 (0)
Forward Looking Airborne Radar (FLAR)/C-130 Modification	60,000 (27)	10,000	11,000	23,525	44,525 (24)
110-foot Patrol Boats (WPB) to Replace 95-foot PB's	112,000 (16)	0	15,400	40,600	56,000 (8)
P.L. 99-177 Sequestration	-18,375				
Subtotal DOD Conference Report Projects:	356,625	10,000	26,400	119,225	155,625
CG Unfunded FY 1986 and Proposed FY 1987 Projects: ($201,000)					
210-foot Medium Endurance Cutter (WMEC) - Midlife Maintenance Availability (MMA)		25,800	16,500		42,300
378-foot High Endurance Cutter (WHEC) - Fleet Renovation and Modernization (FRAM)		0	123,100		123,100
River Tender (WLR) Replacement		4,600	6,000		10,600
270-foot Medium Endurance Cutter (WMEC) - Procurement		0	4,400		4,400
Acquisition of Replacement Motor Lifeboat (MLB) Prototype		0	1,500		1,500
Polar Class Replacement Main Propulsion Monitoring and Control System		0	2,200		2,200
HU-25A Sensor Spares		0	2,900		2,900
Short Range Recovery (SRR) Helicopter (HH65A) Support		0	5,600		5,600
Secure Voice Communications Installation		4,800	1,600		6,400
Deployable Port Security Units (PSUs)		2,000	0		2,000
Subtotal, Coast Guard Projects:		37,200	163,800		201,000
Total Appropriation:	356,625	47,200	190,200	119,225	356,625

* Procure long lead time materials for future WLB SLEP's.

U. S. COAST GUARD
SPENDING PLAN
COASTAL DEFENSE AUGMENTATION ACCOUNT
($000)

DISCUSSION

Projects Earmarked by Conference Report
($155,625)

MRR Helicopter: This is a high priority project to replace existing Medium Range Recovery (MRR) helicopters. It fits well into present Coast Guard capital investment plans and is retained at full Conference report levels. (FY86: 41,000 FY87: 0)

Buoy Tender SLEP: The proposed funding level provides only for long lead time materials because the Service Life Extension Program (SLEP) cannot be accelerated without taking more buoy tenders out of service, resulting in an unacceptable loss of cutter days. Nine WLB SLEP's have been funded through prior year appropriations. The acquisition of long lead time material will support the SLEP of vessels 10 through 14 in the post FY 1987 time frame and is consistent with current production schedules. (FY86: 14,100 FY87: 0)

C-130 Aircraft: All Coast Guard C-130 aircraft will soon have expanded capabilities due to the installation of Forward Looking Airborne Radar (FLAR) which is also to be funded by this spending plan (see "C-130 FLAR" below). The existing fleet of 26 C-130 aircraft, with FLAR, will be adequate to cover operational needs. Also, any new aircraft would require additional follow-on funding for operating expenses to the detriment of other higher priority requirements. (FY86: 0 FY87: 0)

Icebreaking Tug: The present fleet of icebreaking tugs is sufficient to cover existing operational requirements. This additional resource is of relatively low priority. (FY86: 0 FY87: 0)

C-130 FLAR: These Forward Looking Airborne Radars (FLAR) meet high priority requirements directly related to the Coast Guard's defense readiness and law enforcement missions. They will make our existing C-130 aircraft more productive. There is a minor reduction in numbers of sets from that specified in the report (24 vice 27). However, this lower level will provide all the FLAR units needed and capable of installation during the FY 1986/87 time frame. (FY86: 33,525 FY87: 11,000)

Patrol Boat (WPB) Replacement: This replacement project remains a high priority program because of the material condition of the existing WPB fleet. However, requirements regarding competition in contracting limit the possibilities of extending the existing 110-foot Island Class WPB construction contract. In addition, the Island Class WPB does not meet the wide range of mission performance requirements for a fleet-wide WPB replacement vessel. The plan is for a new design followed by a competitive procurement. The proposed funding at a reduced level is consistent with this acquisition strategy. (FY86: 40,600 FY87: 15,400)

Unfunded FY 1986 and Proposed FY 1987 Projects

($201,000)

210' WMEC MMA and 378' WHEC FRAM: Both are high priority projects to continue modernization and rehabilitation of our existing major cutters. Their funding closely matches the intent of the Coastal Defense Augmentation account. Their strong connection with defense readiness and law enforcement is evidenced by the Navy's intimate involvement in both projects. Two-thirds of the MMA contracts are being completed under Navy contract management, and the Navy is providing some funding and equipment for the FRAM projects.

210' WMEC MMA: (FY86: 25,800 FY87: 16,500)
378' WHEC FRAM: (FY86: 0 FY87: 123,000)

Unfunded FY 1986 and Proposed FY 1987 Projects
(continued)

River Tender (WLR) Replacement: This project replaces two aged one-of-a-kind river tenders with a standardized design. The existing cutters are very old and experiencing significant increases in operating and maintenance costs as well as unplanned downtime. Replacements are badly needed to help maintain navigability of critical interior waterways for national security and to facilitate interstate commerce.
(FY86: 4,600 FY87: 6,000)

270' WMEC Procurement: This continues the vital program to modernize our major cutter fleet. These cutters will operate almost entirely within the law enforcement and defense readiness mission areas.
(FY86: 0 FY87: 4,400)

Motor Lifeboat (MLB): This high priority project will replace the 44-foot Motor Life Boat (MLB) which provides fundamental support to all Coast Guard programs. The existing MLB fleet is reaching the end of its useful service life and is experiencing problems due to hull fatigue. The replacement MLB's design will enhance the boat's search and rescue capability by improving its sea kindliness and consequently its ability to come alongside disabled vessels to render assistance. This improvement will also have the added benefit of creating a much improved platform for the conduct of law enforcement boardings.
(FY86: 0 FY87: 1,500)

Polar Class Propulsion: The existing propulsion monitoring and control system aboard the Polar Class icebreakers (POLAR SEA, POLAR STAR) is poorly designed and unreliable. This project will correct these problems and insure that these icebreakers are operational into the next century. Reliable icebreaking operations are required to support important Navy and National Science Foundation research in the polar regions.
(FY86: 0 FY87: 2,200)

HU-25A Spares and HH-65A Support: These projects will provide critical support for operational resources supporting the defense readiness and law enforcement missions. The new Medium Range Search (MRS) aircraft (HU-25A) and Short Range Recovery (SRR) helicopter (HH-65A) are Coast Guard unique resources. Therefore, they are not covered by the DOD system of spares support. These projects are needed to bring Coast Guard support of these resources up to levels comparable to the DOD system.
HU-25A Spares: (FY86: 0 FY87: 2,900)
HH-65A Support: (FY86: 0 FY87: 5,600)

Secure Voice Communications: This project will provide support for both defense readiness and law enforcement operations. Secure voice cryptologic equipment is required to transmit national security information and to conduct timely and secure law enforcement and military operations. The project will install equipment provided by Departments of Defense and Justice at major shoreside operational commands and will install secure voice radios on cutters. (FY86: 4,800 FY87: 1,600)

Deployable Port Security Units (PSU's): The Coast Guard is tasked by the Joint Chiefs of Staff to provide Port Security Forces overseas with the necessary equipment to conduct operations in a deployed hostile environment. The Coast Guard is currently unable to meet these requirements because of a lack of required specialized equipment. This project will fully equip one PSU capable of overseas deployment for 60 days with support from major theatre commands. (FY86: 2,000 FY87: 0)

SENATOR ANDREWS: When specifically will the Navy deferral be transmitted? Why was it not included with the special message accompanying the President's Budget? If it is not transmitted, will a budget amendment for Coast Guard Acquisition, Construction and Improvement be sent to Congress?

ANSWER: The Coast Guard submitted the spending plan to Congress on February 20, 1986. The Coast Guard also sent the Navy a reprogramming request on February 25, 1986 which reflects the spending plan. It is anticipated that the Department of Defense will transmit to Congress promptly the necessary reprogramming and deferral request. There are no plans for a Coast Guard budget amendment for AC&I.

SENATOR ANDREWS: In the absence of an FAA operational supplemental, will a reprogramming request be submitted? How many furlough days will be necessary this fiscal year for FAA employees? Which, if any, categories will be exempted: controllers, inspectors, air traffic maintenance? If they are not exempted, how will FAA manage the Air Traffic Control (ATC) system with fewer people?

ANSWER: Although FAA has adjusted their FY 1986 Operations funding plan and has taken some stringent actions to achieve savings so that they can continue to increase the controller, inspector and security workforce, these actions are not enough to avoid furloughing FAA non-safety staff.

I have discussed FAA's funding shortfall with Jim Miller at OMB. Any supplemental we propose would consist of transfers or offsets in other appropriations. In the absence of funding relief, half of the shortfall could probably be made up by attrition, further contractual cutbacks, and additional management initiatives. The remaining half of the shortfall could be made up by actions equivalent to furloughing FAA non-safety staff a minimum of one day a week, beginning in May.

SENATOR ANDREWS: Is the Department seeking early retirement authority from Office of Personnel Management (OPM) for FAA? How much does this option save this fiscal year? How many of the approximate 2,600 controllers currently eligible to retire will do so under early retirement authority? How will replacements be hired and trained?

ANSWER: Although there have been some discussions on this issue, the Department has no plans to seek early retirement authority from OPM for FAA.

CONTROLLER LEVELS

SENATOR ANDREWS: The September 1985 controller announcement was not accompanied by a budget amendment. Yet last year's testimony made it clear that the FY 1986 budget request would support only a "modest increase in staff, accompanied by an internal re-allocation of positions" (from terminals to centers). How could the same budget support both a "modest increase" and a "500-person increase"?

ANSWER: Although we had essentially met our FY 1985 employment goal of 14,306 by last February, attrition and retirements took their toll during the remaining seven months of FY 1985, and employment dropped to 14,000 on board at the end of

September. In September, I announced that during FY 1986 we would be adding approximately 480 people to the controller workforce we had on board at that time. An FY 1986 budget amendment was not necessary since the budget request already supported a higher level of employment than we had on board as the fiscal year began.

SENATOR ANDREWS: The conferees added the 14,306 February 1985 level to the 500 additional controllers announced in September for an assumed FY 1986 level of 14,800. We are informed that the budget assumes 14,500 by the end of this fiscal year. Even using your numbers, why was the January controller workforce still only 14,000? When will the additional 500 positions be filled?

ANSWER: FAA expects to meet the 14,480 controller workforce employment goal by the end of September 1986. For the remainder of the year over 1,000 new controllers will be hired and some controllers, who are currently performing other duties, will be returning to the controller workforce. This will increase the workforce to meet our goals plus backfill for attrition and Academy dropouts.

The number of full performance level controllers has increased during the past year, although the overall controller workforce employment is below our projected planned level for January largely due to higher than anticipated attrition. Most important, all Department of Transportation accounts and activities were disrupted in the first quarter of FY 1986 because of the lateness of full year appropriations and the uncertainties of the Gramm-Rudman-Hollings legislation. FAA's air traffic activity was no exception.

SENATOR ANDREWS: We understand that last year's loss of 300 controllers is partly the result of the regions allowing qualified controllers to move into other, non-controller, positions. If this "cannibalization" is in fact taking place, why doesn't the Department force FAA to submit regular regional reports on controller staffing? Who, in the Office of the Secretary, is responsible to oversee the number of controllers on board at the FAA?

ANSWER: We are aware that because of career advancement some controllers have and will continue to shift into supervisory positions. We do not consider this "cannibalization" of the controller workforce since this shift is one of the factors taken into consideration when FAA develops each fiscal year's staffing and employment plan. We do, however, intend to review, with FAA, the Regional Directors' authority to shift positions within facilities.

Meeting controller employment goals is the responsibility of the FAA Administrator, who reports directly to the Secretary, but OST staff does review regular monthly employment reports which reflect the controller workforce by category at centers and towers, as well as non-controller employment. Major changes from previous monthly reports are analyzed, and recommendation may be made to the Secretary if significant deviations from planned levels occur.

SENATOR ANDREWS: The Conferees required the FAA to submit a report within 15 days after enactment describing the adjustments necessary in "Operations" to meet the funding level provided. This report also was to reflect the FY 1986 500 additional air traffic controllers on a base of 14,306. This report has not been submitted. Why is it late?

ANSWER: The report describing the necessary adjustments in the "Operations" appropriation to meet the funding level provided was initially delayed to assess impact of the Congressional reductions as well as the impact of Public Law 99-177, commonly known as the "Gramm-Rudman-Hollings Act." It is now in the process of internal review.

SENATOR ANDREWS: Will FAA reach these staffing levels by July 31, 1986. As expected by the conferees?

ANSWER: The FAA will not reach a controller workforce staffing level of 14,806 by July 31, 1986. The FAA will reach a controller workforce level of 14,480 by September 30, 1986.

CONTROLLER PERFORMANCE LEVELS

SENATOR ANDREWS: The Department claimed that in December 1984 100% of the tower goal and 82% of the air traffic control center goal for operational controllers (qualified on two or more positions) had been met. What was the operational controller level as of December 1985 in towers and centers?

ANSWER: As of December 31, 1985, we had an air traffic controller workforce on board strength of 13,978 at the centers and towers. Seventy-five percent (10,454) were operational controllers qualified on two or more positions: 6,110 at towers and 4,344 at centers.

SENATOR ANDREWS: General Accounting Office (GAO) has testified that FAA's goal was to have 6,600 full performance level controllers (qualified to operate all positions in a defined area) by July 1984. But, as of June 1985 FAA was 300 short. As we head into this summer, how many full performance level controllers will be in place?

ANSWER: As of January 31, 1986, the FAA had 8,587 full performance level controllers in terminals and centers. Even with normal attrition and accretions, we expect to have at least this many through the summer.

SENATOR ANDREWS: With air traffic volume at pre-strike levels, but 5,000 fewer full performance level controllers, and the first major labor-saving automation not available until the early 1990's what is the Department's plan to keep the system safe? Will traffic controls be reinstituted?

ANSWER: We do not believe that we have to return to the staffing of facilities that existed pre-strike in order to handle the increased traffic levels. Through the judicious use of air traffic assistants, operational controllers and flow control exercised by in-facility traffic management units and Central Flow, we can match the demand to our ability to handle the traffic and thereby maintain a safe and efficient system with fewer full performance level controllers than we had previously. We have developed staffing standards that are based on shift rotations that match controller workforce staffing to facility traffic patterns.

AVIATION INSPECTORS

SENATOR ANDREWS: The Department's February 1984 initiative for 166 additional air carrier safety inspectors assumed they would be hired by the beginning of FY 1985 and were to complete formal and informal training by July 1985. Was that goal met? Are all 166 still on board, or has that number decreased as apparently was the case with controllers?

ANSWER: The 166 additional air carrier safety inspectors were hired by the beginning of FY 1985. In order to complete the formal training for these new inspectors by July 1985, additional classes were scheduled, class sizes were expanded, and other training of lesser priority was delayed. The informal training for these inspectors consisted of on-the-job training. This training requires approximately 18 months; and, therefore, was not completed by July 1985. As of January 31, 1986, there were 663 air carrier inspectors employed by the FAA compared to 672 on September 30, 1985. This 1.4% reduction is as a result of attrition which is not uncommon.

SENATOR ANDREWS: That would have brought the air carrier inspector force to the pre-1981 level of 674 during FY 1985. How many of the FY 1986 increase of 150 air carrier and general aviation inspectors hired after the September 19, 1985, announcement are on board? What are the actual in-training and in-the-field personnel levels currently in FY 1986? What will be the level at the beginning and end of FY 1987?

ANSWER: The FAA did not have budget authority for the 150 positions until passage of the full FY 1986 Appropriations, on December 19, 1985.

Recruitment was initiated, and the first of these additional inspectors are coming on board in March. FAA's goal is to have the 150 positions filled by the end of FY-1986. As of January 31, 1986, there were 663 air carrier inspectors and 789 general aviation inspectors. Of these, 60 are currently in training.

The aviation safety inspector position level at the beginning of FY-1987 will be 1760. An additional 138 positions are requested for FY-1986 bringing the level to 1898 at year end.

SENATOR ANDREWS: Has the Department's training program for inspectors improved upon the 2-year timeframe before an inspector is fully proficient?

ANSWER: FAA has improved the efficiency of its training programs. Hiring schedules are coordinated with formal school availability. There is very little delay between a new inspector's employment date and his or her initial training. New inspectors also receive all required formal training courses in a single, sequentially scheduled block of training. On an average, this block of training is eight weeks long. On-the-job training, however, is an essential part of an inspector's curriculum. This type of informal training requires approximately 18 months. Inspectors are capable of performing many job functions on the basis of formal training alone. However, a fully seasoned, journeyman inspector must also complete on-the-job training.

GENERAL AVIATION SAFETY AUDITS

SENATOR ANDREWS: What is the current level of general aviation inspectors? Provide a summary of conclusions from the GA safety audit.

ANSWER: For FY 1986, FAA has 863 general aviation inspector positions. As of December 31, 1985, 801 of these positions were filled. I expect to receive the final report form the General Aviation Safety Audit by the end of March. That report will include a number of recommendations for actions to improve FAA's inspection program and oversight to ensure that problems identified during the audit are corrected. During the 12-month audit, FAA conducted inspections of 6,859 operators, air agencies, airmen, and aircraft. Of the detailed findings, 91 percent were satisfactory, and 4 percent were unsatisfactory and considered significant because of the adverse effect on safety. We did issue interim reports on the findings from the five segments of the audit, as the data were analyzed. A summary of those reports follows:

Segment I -- FAA conducted inspections of all 61 non-aircarrier large airplanes that are certificated to operate under Part 125 regulations. Of the findings, 87 percent were satisfactory. Deficiencies included inaccurate and incomplete records and manuals, aircraft defects, and inadequate emergency equipment. At the conclusion of the audit, inactive operators had either surrendered or been asked to surrender their certificates, and 33 operators remain active.

Segment II -- Inspections on the 27 active corporate (executive) aircraft which are subject to operating noise limits set in FAA regulations resulted in 94% satisfactory findings. Only 7 of the 22 unsatisfactory findings were considered to be significant, and these included loose or missing life rafts, fuel leaks, loose antenna coupling, and missing emergency evacuation slides.

Segment III -- FAA conducted 4,305 inspections of repair stations, mechanics with inspection authorization, pilot training schools, flight instructors, and designated pilot examiners and found that 93% of the findings were satisfactory. However, the interim report identified areas that needed improvements. Some repair facilities needed better control of libraries, manuals and publications; some had improperly calibrated tools and equipment. Some pilot schools were judged unsatisfactory because of the quality of training and qualifications of instructors.

Segment IV -- In the random sample of air taxis inspected, 89% of the findings were satisfactory and 6% of the findings were judged to have an adverse effect on safety. The most frequent deficiencies involved maintenance of emergency equipment, record-keeping and flight instructor training. FAA initiated 127 enforcement actions against 95 operators and their employees. FAA revoked certificates of 3 operators and suspended certificates of 3 others, while 89 operators voluntarily surrendered their certification.

Segment V -- FAA inspected 100 non-aircarrier operators of large aircraft that have been granted authority to deviate from all or part of the Part 125 regulations, and 93% of the findings were satisfactory. Significant problems related to maintenance programs, manuals and records, and crew qualifications.

REVISED NATIONAL WORK PROGRAM GUIDELINES (RNWPG)

SENATOR ANDREWS: The FAA Administrator, after releasing the results of the National Air Transportation Inspection Report, directed that Revised National Work Program Guidelines (RNWPG) be developed and implemented. Are they now in place in all FAA regions? How do the guidelines provide for improved inspection coverage?

ANSWER: FAA Order 1800.56, Administration of Aviation Standards Activities -- Program Guidelines, was published October 11, 1985. This order implements National Work Program Guidelines in all FAA regions. The guidelines provide for improved inspection coverage by mandating that all airlines, repair stations, and other certificated operators receive a minimum specified number of annual inspections by the FAA office in each locale in which they conduct business.

SENATOR ANDREWS: GAO's 1985 report identified 29 air carriers which had had no FAA avionics inspections during 1984. Has this been rectified?

ANSWER: The National Work Program Guidelines require a minimum specified number of annual avionics inspections for certificated air carriers, operators, and air agencies.

SENATOR ANDREWS: GAO is continuing to review the adequacy of FAA standards; inspection sufficiency; and the reasons why violations go undetected and/or uncorrected. At this point, are you fully satisfied on all these grounds?

ANSWER: The combination of National Work Program Guidelines and special indepth inspections provides reasonable assurance that system deficiencies and violations of the Federal Aviation Regulations will be detected and corrected. However, the FAA appreciates the additional efforts of the GAO and values an independent perspective on identification of problem areas.

AVIATION SECURITY

SENATOR ANDREWS: Congress provided $2,000,000 in the FY 1985 supplemental and additional funding in FY 1986 for 200 more positions in aviation security. At the time there was little solid data on the number and potential use of Federal Sky Marshals. What is the current level of such personnel, and what circumstances result in their accompanying a flight?

ANSWER: By January 31, 1986, FAA had increased the security workforce by more than 40% over what we had on board in June 1985 at the time of the TWA hijacking. We have hired and trained almost the full cadre of Federal Air Marshals that will be posted domestically, and are progressing to hire agents for international posts who will assist foreign governments.

The Federal Air Marshals are assigned to high risk air routes throughout the world. These routes have been selected on the basis of actual or suspected terrorist activity targeted at U. S. aviation interests.

SENATOR ANDREWS: Provide a status report on major security improvements as a result of last summer's August report to the President.

ANSWER: In June 1985, the Department requested the International Civil Aviation Organization (ICAO) to embark upon an intensified program aimed at responding to the need for enhanced security. ICAO convened a meeting with representatives from a number of States in late summer to discuss new security standards and recommendations. The Council, at the 29th meeting of its 116th Session on December 19, 1985, adopted Amendment #6 to Annex 17, "Security," to the Chicago Convention to provide for the upgrading of 19 specifications to Standards and the adoption of 11 new specifications.

Assessments of security measures at foreign airports currently are being conducted in accordance with the International Security and Development Cooperation Act of 1985 (P.L. 99-83). Initial assessments of all major airports were completed in 1985, with some airports being visited several times. The regional terrorist threat is a major consideration in determining the frequency and scope of the assessments.

The Federal Aviation Regulations were amended to require each certificate holder to provide a ground and an inflight security coordinator for each international and domestic flight. The amendment further requires that all crewmembers be provided expanded security training.

Enhanced security measures regarding checked baggage were implemented at international airports. For certain flights, the strengthened security measures require air carriers to match baggage to passengers or physically to search baggage. Curbside check-in for international flights has been eliminated.

A longer-term solution on screening checked baggage entails research and development (R&D) on explosive detection equipment. Over $5,000,000 was committed for explosive detection research in FY 1985; $11,803,000 has been provided for FY 1986; and $12,711,000 is requested for FY 1987.

The regularly scheduled inspections of domestic U.S. airports are continuing with increased emphasis being directed toward airports used for international operations.

In November 1985, FAA issued directives requiring that the prior employment be verified of those airline and airport employees whose duties permit them unescorted access to airport secure areas.

On February 19, the Secretary forwarded a draft bill to the Congress which proposes amendments to the Federal Aviation Act of 1958 to strengthen aviation security programs. Its enactment would allow the FAA to issue Federal Aviation Regulations to require appropriate background investigations, to include a review of criminal history records maintained by the Department of Justice of airline and airport employees whose duties permit them access to secured areas on airports or to commercial aircraft. The legislation further proposes to make unauthorized entry to airport secured areas a Federal crime.

SENATOR ANDREWS: In what specific ways has security been improved at Athens, Rome, and Vienna since the attacks there last year?

ANSWER: Formal, comprehensive security evaluations (one by an International Civil Aviation Organization (ICAO) team and two FAA teams) have been conducted at the Athens Airport since June 14, 1985. All three evaluations determined that security procedures in place at Athens Airport met minimum ICAO standards which include adequate passenger screening and enhanced perimeter security. Similar evaluations were conducted during this period of the Rome and Vienna airports, and they found that the required aviation security standards were being met at both airports. Unfortunately, and perhaps because security is effective, the terrorist attacks occurred outside the security-protected areas. The Italian, Austrian, and many other European Governments have further increased security in these areas to include additional police patrols and routine checks of suspicious persons and vehicles.

SENATOR ANDREWS: Additional funds have also been provided for research into improved screening devices. What is the most promising of such technologies and how soon will airlines and airports be so equipped?

ANSWER: The most promising near term technology is the thermal neutron interrogation system which will detect explosive devices placed in baggage or air cargo. Final development and testing which will enable FAA to prepare a production specification will be completed in late 1987. The first units could be procured by the airlines and in place by 1988. Another technology for detecting explosives carried by passengers is the chemiluminescence explosive vapor detection system. Work on this program has been accelerated with final development and production documentation planned for 1988.

PRIVATE CORPORATION FOR AIR TRAFFIC CONTROL (ATC)

SENATOR ANDREWS: The Budget (p. 5-72) states that "the safe and efficient movement of air traffic nationwide is an accepted Federal responsibility." Does that responsibility include or rule out the proposal that the ATC system be converted to a non-DOT corporate structure? What are the pros and cons of such a proposal?

ANSWER: I have made safety my highest priority in all modes of transportation. Numerous organizational structures to assume the air traffic control responsibilities of the FAA could be conceived that would be theoretically within the bounds of federal responsibility depending upon their operating charter and reporting and control requirements. The benefits of such structures are predicted to be streamlined management and procurement systems. The important question is whether such expected benefits can be achieved without affecting the safe and smooth operation of our air traffic control system, and if so, are those benefits truly obtainable and do they outweigh the certain costs of transition.

AIRPORT GRANTS

SENATOR ANDREWS: The budget states that "larger airports are able to finance their capital improvements themselves". If so, will the Department's aviation legislative proposal include a defederalization initiative? When will the aviation reauthorization legislation be transmitted?

ANSWER: We are now in the process of formulating our aviation reauthorizing legislation, and defederalization is one of the alternatives being considered in the area of airport grants. No final decision on its inclusion has been made, however. We plan to submit our legislation this Spring.

GENERAL AVIATION AND COMMUTER FLIGHT SIMULATORS

SENATOR ANDREWS: To what extent are flight simulators required by the FAA passenger aircraft pilots? Is simulator training a requirement for commuter and air taxi pilots?

ANSWER: Simulator training is not specifically required for any pilot, including commuter and air taxi pilots. The FAA permits and encourages the use of simulators during pilot training. However, there are many types of aircraft in use for which a simulator has not yet been developed. Therefore, mandatory simulator training would not be equitable. The FAA currently is developing standards and guidelines to expand the use of less sophisticated and, consequently, less expensive devices in air taxi and commuter pilot training and testing. Additionally, the FAA has an ongoing project to revise the Federal Aviation Regulations to permit expanded simulator use in general aviation training and testing. These efforts are designed to promote the use of simulators without making their use mandatory.

SENATOR ANDREWS: What studies have been conducted of the safety efficacy of simulator training for unique circumstances such as windshear? If simulators can improve a pilots' familiarity with adverse and unique flight conditions, why are they not a pilot training recommendation for all passenger carriers?

ANSWER: For several years, the aviation community and the FAA have been working toward the development of more sophistication in simulation. Concurrently, the FAA has encouraged the incorporation of training segments dealing with unique situations, like windshear, into existing training programs. Operators are now conducting ground training on the effects of windshear and have included this type of training in their flight simulator training. Currently, the FAA is reviewing its regulations with a view toward a possible modification that would require operators to include windshear training. Additionally, the FAA has recently entered into a contract to systematically study windshear and its effects on aircraft and crews. The participants in this project are the three largest U.S. aircraft manufacturers (Boeing, Douglas, Lockheed), major U.S. airlines (e.g. United), and technical organizations (e.g. Aviation Weather Associates, Inc.), along with the FAA. This program will provide the needed information on how best to train airline crews to recognize and avoid areas of windshear and how best to deal with the flight dynamics of the aircraft should it inadvertently become involved in a windshear situation. This information will be available for inclusion in flight simulator training programs.

Additionally, the FAA is currently involved in a project to gather data on the crew coordination requirements, equipment necessary, and the information that will be required to satisfactorily accomplish unique lower weather visibility approach and landing training (down to Category III minimums).

This project will also yield information that will significantly benefit the flight simulator training programs for those operators allowed to operate to those weather minimums.

SENATOR ANDREWS: To what extent could general aviation safety be improved by the use of flight simulators?

ANSWER: There is limited use for flight simulators in initial general aviation pilot training. This is due to a lack of availability of flight simulators that are representative of most small (non-complex) general aviation aircraft. Also, the cost of training and checking in simulators is relatively high when compared to the operating cost of small, general aviation aircraft. On the other hand, simulators are available for initial and recurrent training and testing in more complex (i.e., turboprop and turbojet) aircraft for advanced certificates and ratings. The cost of training and checking in these simulators is relatively moderate when compared to the operating cost of the aircraft that these simulators represent. The FAA is committed to promote the use of simulators for general aviation as the state-of-the-art develops. Such use could enhance general aviation safety because simulators can perform the normal, abnormal, and emergency procedures required in training, testing, and proficiency checking in a safe environment.

TERMINAL DOPPLER

SENATOR ANDREWS: Is it prudent to put money into Terminal Doppler Radar acquisition when the technology is still in the research phase?

ANSWER: Yes. The radar technology has been in use for a number of years. The National Center for Atmospheric Research has been using Doppler radars to track and identify wind shear phenomena at various sites across the country. The FAA has operated its own Terminal Doppler Weather Radar (TDWR) test bed at Memphis for the past 2 years.

The basic automatic detection algorithms are now available for testing. These will be tested at Huntsville, Alabama, this summer using the FAA's TDWR test bed. The TDWR test bed will be one of five Doppler Weather Radars operating at Huntsville as part of a National Science Foundation project. This will allow us to test and validate the detection algorithms in a humid climate. In 1987 the FAA TDWR test bed will be used to validate the automatic detection algorithms in a dry climate. When the FAA is confident that the algorithms work properly they will then be provided to the contractor for integration into the system package.

SENATOR ANDREWS: After the Delta 191 tragedy last August, FAA indicated that actual production and procurement was several years off. Is a production line for Terminal Doppler in place?

ANSWER: No. Procurement of Terminal Doppler Weather Radar Systems is in the initial stages at this time. Studies to validate hardware and software requirements and specification development is now in progress. For the interim period, 14 NEXRAD FAA non-network systems will be delivered in a terminal configuration for early installation at major airports and 1 will be delivered to our FAA Technical Center for support. Deliveries of these systems will occur in the period from 1989 through 1991.

SENATOR ANDREWS: How many Terminal Doppler airport systems will be procured in FY 1987? Where will they be located? When will they be installed?

ANSWER: FAA plans to procure 14 operational NEXRAD interim Terminal Doppler Weather Radar Systems plus one support system in 1987.

The proposed locations and delivery dates for these interim TDWR's are shown below:

Site	Delivery Date
1. FAA Technical Center	6/89
2. Washington National/Andrews AFB	9/89
3. Atlanta	3/90
4. Chicago	6/90
5. Miami/Ft. Lauderdale	6/90
6. Dallas/Ft. Worth	7/90
7. Denver	9/90
8. St. Louis	10/90
9. Tampa	11/90
10. Houston	12/90
11. Orlando	1/91
12. New York Kennedy/LaGuardia	2/91
13. Pittsburgh	3/91
14. Minneapolis/St. Paul	4/91
15. New Orleans	5/91

SENATOR ANDREWS: How much effort should be placed on a ground-based system (which relies on time-consuming, ground-based verbal communication) when Boeing is moving toward cockpit systems?

ANSWER: The Boeing cockpit Wind Shear Detection System does not detect in advance. It only tells you when you are in a wind shear situation. There are other similar systems on the market or in development.

Airborne wind shear devices only provide the pilot an aural/visual warning after the pilot has encountered the shear condition. It provides no advanced warning and currently provides no guidance to the pilot during the recovery phase.

Wind shears vary in severity and the pilots ability to recover is a function of the severity of the shear, the phase of flight, and the reserve energy stored in the vehicle. There are shears which an aircraft on approach or departure will be unable to negotiate and the aircraft will be lost. The best approach is to avoid wind shear conditions completely. The only device available today which can detect wind shear and provide warnings on shears in the approach and departure paths is the ground based terminal doppler weather radar. We believe that these devices should be implemented at major airports.

AIRCRAFT FATIGUE

SENATOR ANDREWS: On February 3, 1986, FAA ordered inspections of all 747's after discovering cracks in four aircraft frames. On January 9, the National Transportation Safety Board (NTSB) issued three safety recommendations. Two classified as urgent. These recommendations followed from the Boston December 15 incident in which the wing flap on a Boeing 747 had separated due to fatigue cracks in the flap bolts. After its inspection British Airways found another Boeing 747 where fatigue was indicated. Has an airworthiness directive been issued to require inspection of these Boeing 747 wing flap bolts, as recommended by the NTSB?

ANSWER: An airworthiness directive (AD) has not been issued on the B-747 flap system. The FAA is working with the manufacturer to develop a service bulletin which will contain all of the instructions and data needed to assure the adequacy of the B-747 flap system. An AD based on this service information is currently being developed.

SENATOR ANDREWS: In the larger sense, what analysis has the Department conducted of aircraft service life and the seemingly increasing aircraft fatigue safety incidents (like these and the bulkhead problem associated with the Japan Air Lines crash last year). In other words, as the commercial aircraft fleet ages, is the public more at risk?

ANSWER: As a result of many years of concern about aging transports, the FAA initiated in 1981 a "Supplemental Structural Inspection Program for Large Transport Airplanes" (reference FAA Advisory Circular 91-56) which provided guidance to the aviation community with regard to the methods by which to assure improved structural integrity for older transports. Under this program, all large transports are being reassessed using the most modern techniques of fracture mechanics, and taking into account the service experience of each type in order to develop a supplemental inspection document which augments the existing maintenance program of an airplane type. These documents are under continuing review in order to assure that they reflect the most up-to-date technology and lessons learned from service experience. This activity will assure that the public is not at more risk as the commercial fleet ages.

MILITARY CHARTERS
ARROW AIR

SENATOR ANDREWS: When will FAA's accelerated safety inspection of the 24 airlines operating under military charter be concluded?

ANSWER: FAA is inspecting military charter airlines as a special emphasis program under the 1986 Flight Standards National Inspection Plan. The objective of this plan is to accomplish all of the specified inspections in calendar year 1986. This objective assumes that FAA priorities will not change and that the duration of individual inspections is not extended due to unanticipated inspection requirements.

SENATOR ANDREWS: What communication is exchanged between Department of Defense (DOD) and the FAA on charter airline safety? Describe the formal process currently in place to notify DOD of carrier deficiencies?

ANSWER: The formal process for notifying DOD of carrier deficiencies is defined by FAA Order 8000.4E, Coordination with Military Airlift Command (MAC). This order requires that district offices having certificate responsibility for military contract carriers notify the Contract Airlift Survey Office (MAC/L61) whenever safety problems are identified.

SENATOR ANDREWS: What inspections on Arrow Air were conducted over the past three years? How does this compare to other charter carriers? What specific irregularities were identified, and what penalties or corrective action resulted?

ANSWER: In addition to normal surveillance and inspection, Arrow Air received both Phase I and Phase II inspections during the National Air Transportation Inspection (NATI) in 1984. Also, an indepth inspection of Arrow was completed on February 21, 1986. All military charter operators received Phase I inspections under NATI. Of 43 air carriers receiving Phase II inspections, six were military charter operators. The NATI Phase II inspection discovered 25 irregularities in Arrow involving operations specifications, company manuals, training records, passenger briefing cards, minimum equipment lists, defective seat cushions, aircraft weight and balance, maintenance training, maintenance records, tools and special equipment, maintenance inspection programs, and contract maintenance. All irregularities discovered during NATI were corrected by September 18, 1984. The indepth inspection which was completed February 21, 1986, discovered 49 irregularities some of which are similar to the irregularities discovered during NATI. The 49 irregularities involve operations specifications, company manuals, training programs, records systems, dispatch and flight release, minimum equipment lists, aircraft weight and balance, compliance with airworthiness directives, maintenance/reliability programs, maintenance inspection system, continuous analysis and surveillance program, fueling and servicing, and deferred maintenance items. These irregularities resulted in 12 enforcement investigations, which are pending.

SENATOR ANDREWS: To what extent should the Defense Department's Military Airlift Command inspect charter aircraft used in troop transport? If Defense Department personnel were made responsible for inspections, what impact on FAA training would result?

ANSWER: The military should continue to accomplish capability surveys and other evaluations as determined by contract requirements. Safety inspections should remain the responsibility of the FAA. If Defense Department personnel were given overall responsibility for inspection of military contract operations, it would have no bearing on FAA resources since these operators all have domestic and flag authority to carry the general public. Therefore, FAA inspection requirements would not change; and, consequently, FAA training requirements would not change.

ESSENTIAL AIR SERVICE PROGRAM

SENATOR ANDREWS: Did the Department's budget submission to OMB request essential air service funding? In what amount?

ANSWER: Our budget to OMB, which was submitted 3 months before enactment of the Gramm-Rudman-Hollings legislation, included the Essential Air Service program. The request for Payments to Air Carriers appropriation was $38 million. Under Salaries and Expenses, $2.3 million was requested for the Office of Essential Air Service and associated support costs for the program.

CURRENT ESSENTIAL AIR SERVICE PROGRAM

SENATOR ANDREWS: Communities are critical of the current essential air service program on several grounds:

1. That subsidy awards are not being renewed, or contracts are broken, to award routes to carriers offering reduced seating.
2. That contract renewals take an inordinate period of time, leaving carriers and communities unclear of subsidy rate and service commitment.

Is the current program delivery suffering because of recurring attempts to eliminate subsidies before 1988?

ANSWER: Delivery of the Essential Air Service (EAS) program is not suffering from the attempts to end the program before its statutory expiration date. The EAS functions and staff were transferred from the Civil Aeronautics Board intact. Integration into the Department has been completed. Currently, the program is fully funded and functioning normally. The vast majority of carrier selection cases and subsidy rate renewals are being accomplished within the same short time frames as in the past. Of course, as in the past, there are sometimes extremely complex cases involving several competing carriers, several communities, and controversial issues as to the appropriate service levels, and these cases can take longer than the average.

Subsidy rates are being renewed, as they have throughout the life of the program, as rates and selection terms expire every year or two. To maintain carriers' incentives to control costs and develop traffic, the staff always invites new proposals when rates are approaching their expiration date. On occasion incumbent carriers are replaced when superior service or subsidy proposals are presented by other carriers. Sometimes renewal or selection proposals embodying fewer seats are accepted when they meet the definitions of EAS and can fully accommodate current traffic at reasonable load factors.

In a very few instances incumbent carriers have been replaced during a rate period by competing carriers that have successfully filed bumping applications. These bumping applications are the result of section 419(a)(11)(B) of the Federal Aviation Act, under which carriers having served a point for two years or more can be "bumped" by competitors offering either substantially improved service at no subsidy increase or substantially decreased subsidy for service fully meeting a community's esssential air service requirements. Under this legislation, an incumbent carrier might be replaced prior to the end of its designated selection period. This "bumping" process may be inappropriately perceived by some incumbent carriers as breaking of a "contract." Because the bumping process is an integral part of the Act the EAS staff has only limited discretion in its application.

ESSENTIAL AIR SERVICE

SENATOR ANDREWS: What analysis has been conducted by the Department on alternative transportation available without subsidized aviation? How many citizens, and which states will be most severely affected?

ANSWER: We have not undertaken any in-depth analysis of alternative transportation available at the subsidized communities. However, we know there is public bus transportation available at many of the subsidized communities in the lower 48 states. Moreover, we would expect that passengers currently using subsidized essential air service would use private, surface transportation to the nearest alternative air transportation center if subsidized air service is discontinued at their local airports. The limited demand for transportation — as evidenced by the extremely low historical traffic levels at these communities and their very small population bases -- is not adequate to support scheduled air transportation economically.

153 communities in the 50 states are currently receiving air service with section 419 subsidy support. Alaska has 46 subsidized communities, accounting for more than 10 percent of the total subsidy expenditures. We would expect that a substantial number of these Alaska communities would continue to receive air service, although perhaps from air taxi operators rather than commuter carriers. There are 107 subsidized communities in 35 other states. We anticipate that 24 would continue to receive air service if the subsidy program is ended and 83 would be likely to lose scheduled air service at their local airports. During 1984, these 83 communities enplaned a total of 170,000 passengers (an average of 7 per day at each community). This amounts to one twentieth of one percent of the total domestic enplanements in the air transportation system. Excluding the communities that are likely to retain air service, the states likely to experience the largest loss of service are Nebraska (8 communities), Montana (7), New York (5), and Michigan and South Dakota (4 each). No other state (outside Alaska) has more than three communities that would be likely to lose all service.

SENATOR ANDREWS: You testified last year that about 2/3 of the communities currently receiving air service subsidies are between 75 and over 150 miles from the nearest hub. Further testimony indicated that enplanement levels vary from 5-20 enplanements a day. What alternative subsidy programs have been reviewed by the Department for those communities farthest from hubs, structured to encourage maximum enplanement levels?

ANSWER: In view of our position that operating subsidies for air transportation should be discontinued, we have not considered any alternative subsidy programs. More importantly, however, given the costs of providing air service, the extremely low historical levels of traffic at the subsidized communities and the lack of potential for generating significantly higher levels of traffic at most of these communities, continuation of operating subsidies or alternative subsidy programs cannot be justified on economic grounds.

Of the 83 communities in the lower 48 states that are likely to lose air service, 27 are located less than 75 miles from a hub -- many via interstate highways. These communities would therefore have convenient access to the national air transportation system through nearby hub airports.

The circumstances at the remaining 56 communities underscore our position that operating subsidies are not likely to result in the development of self-sufficient air service. As indicated in a number of studies done before deregulation, the estimated levels of traffic necessary to maintain self-sufficient air service range from 6 to 25 enplanements per day. The experience of the Essential Air Service program suggests that the threshold is approximately 20, depending upon specific circumstances at the community.

Of the 56 communities in the lower 48 states that are likely to lose air service and are more than 75 miles from a hub airport, 28 enplane five or fewer passengers per day, 18 enplane between 5 and 10 passengers per day, and 10 enplane between 10 and 20 passengers per day.

21 communities are located more than 150 miles from a hub. The prospects for economically viable air service at these communities are not good since 17 of them enplane 10 or fewer passengers per day (12 enplane 5 or fewer). Moreover, looking at traffic levels at these isolated communities since 1976, only five of the 21 communities ever enplaned more than 20 passengers per day. 14 of them never enplaned more than 15 passengers per day. Thus, significant increases in traffic at these communities are not likely.

In conjunction with this, the Civil Aeronautics Board undertook several use-it-or-lose-it tests offering higher levels of air service for one- and two-year periods in an effort to stimulate traffic at subsidized communities. The objective of these tests was to encourage maximum enplanement levels and thereby develop self-sufficient air service with the ultimate elimination of subsidy. The tests have not been successful in achieving any significant increase in traffic or eliminating subsidy need.

SENATOR ANDREWS: Did the use-or-lose experiments in Mississippi, Tennessee and Virginia result in better traffic? If not, have those communities lost subsidized air service?

ANSWER: The three use-or-lose experiments conducted thus far for points with full eligibility for essential air service took place in Mississippi, Kentucky and Virginia. To date, no use-or-lose experiments have been conducted in Tennessee. All of the communities involved were very low traffic-generating points and the tests were designed to provide higher levels of service with the intent of increasing traffic and subsequently lowering or eliminating subsidy. The points in Mississippi were Greenwood and University/Oxford which prior to their test had received service to the same hub, Memphis. The test provided University/Oxford with service to Jackson and continued Memphis as Greenwood's hub. The total annual subsidy cost for the test was $672,528. In order for the test to be successful, traffic had to reach target levels that were established and agreed upon by all parties. The minimum traffic for continuation of service required that for a 12-month period 1,565 passengers (5 daily assuming 313 service days) be enplaned at Greenwood and 1,252 passengers (4 daily) at University/Oxford. The year prior to commencement of the test, Royale Airlines averaged 1.3 enplaned passengers at each of the two points. By the end of the test period Greenwood was enplaning 3 passengers per day and University/Oxford was averaging 2 per day. Although traffic did show improvement during the test, both points fell considerably short of achieving the target levels. Further, during the last several months of the test traffic levels had been on the decline. Therefore, the Department terminated the use-or-lose test and the subsidy. Although subsidy was terminated, Greenwood continues to receive weekday air service to Jackson and Memphis. University/Oxford currently receives no scheduled air service.

At London/Corbin, Kentucky the test was to run for up to two years with service to Lexington and Knoxville. In order for the test to be successful a total of at least 500 passengers had to enplane and deplane during the tenth through the twelfth months of the test, 1,500 passengers during the thirteenth through the eighteenth months and 2,500 passengers during the nineteenth through twenty-fourth months of the test. During the three years prior to the test, the point had generated only two to three enplanements per day. Despite what the community classified as excellent service by Tennessee Airways, the traffic results fell short of the agreed-upon levels. Over the first eleven months of the test, only 360 total passengers used the air service to and from the community, an average of 33 per month or just over one per service day. For the first 52 days of the three-month period for which traffic test results were to be calculated, London/Corbin generated only 38 passengers. Thus, based on the community's inability to achieve the agreed upon traffic standards and the favorable comments on the service, the Department terminated the use-or-lose test and the subsidy. The total subsidy cost of the test was $291,243. London/Corbin currently receives no scheduled air service.

Danville, Virginia's use-or-lose test term was for a two-year period and provided weekday and weekend service to Charlotte and weekday service to Washington. Danville's test was different from the other tests since there were fixed subsidy rates set for subsequent years of service should the first year target traffic levels be met. The following conditions were to be met during the test:

(1) 5,700 passengers (enplaning and deplaning) during the first year or 1,650 during the tenth through twelfth months;

(2) 7,500 passengers during second twelve months with a carrier agreement to provide service for a third year for subsidy of $250,000 or less per year;

(3) service provided at subsidy of $250,000 or less per year for subsequent annual renewal periods (i.e., end of third year, fourth year, etc.)

(4) service to Washington may be replaced with the same level of service to Charlotte;

(5) if the carrier discontinued service a replacement carrier could be found;

(6) service guarantee to be withdrawn if traffic levels not attained, provided that circumstances beyond community's control are taken into account.

During the first nine months of the test, Danville generated a total of 2,497 passengers and 1,872 passengers for the fourth quarter. Enplanements averaged two to three per day prior to the test and seven during the test. The community met the standard during the fourth quarter, through the use of very deep discount fares and services which were not contemplated as part of the test. However, the prospects of meeting the standards for the second year were very slim. Therefore, the Department decided to cancel the test and resume normal EAS for Danville. Total subsidy cost for the test was $499,594. Danville now receives subsidized service to Washington.

SENATOR ANDREWS: What other subsidy alternatives have been studied? For example, one major impediment to a regional carrier operating in smaller markets is initial capitalization. I feel such initial startup costs somewhat contradict the free-market theory, since [illegible] new regional carrier doesn't start out on a "level playing field", because of significant initial capital costs. What analysis has the Department conducted of this program, and possible solutions, such as a (no outlay) loan program for initial capitalization? (Like REA or Ex-Im Bank)

ANSWER: The evidence of the past seven years since deregulation does not suggest that initial capitalization has been an impediment for carriers wanting to provide service to small communities or a deterrent to developing economically viable service. The commuter air carrier industry (i.e., the carriers that have assumed the responsibility for serving the essential air service communities) has experienced unprecedented growth at all levels and in all parts of the country. There has been a significant amount of capital investment in this industry, enabling many new carriers to enter the industry as well as established carriers to expand and purchase new and larger equipment.

In addition, the now retired loan guarantee program administered by the Federal Aviation Administration assisted carriers for several years after deregulation in obtaining loans for equipment, thereby helping with initial costs of establishing operations.

The real impediment to maintaining air service at small communities is not capital funding but the economics of the operations. Regardless of the availability of capital, carriers will not choose to continue service in markets that do not have the potential for operating profits. The communities that are currently being subsidized under the essential air service program are now generally the core of points that fall into this category. Therefore, operating subsidies may be the only way to maintain service at these communities. However, given the extremely low levels of traffic that are benefiting from these subsidies and the resulting high subsidy costs per passenger, we do not believe such subsidies should be continued.

SENATOR ANDREWS: (Assuming no studies have been conducted), what about a panel along the lines of the Holton Airport panel to study the no- or low-cost options for small community air service after 1988? Rather than completely abandoning these communities, why not charge them to devise an alternate program?

ANSWER: As indicated in a previous response, the prospects for providing economically viable air service at the currently subsidized communities, i.e. service requiring little or no subsidy, are not good given the limited traffic/revenue potential at these communities.

Given the level and type of service being provided at the subsidized communities -- generally two or three round trips with small aircraft -- we do not see any way of signficantly reducing operating costs. On the traffic/revenue side, our experience and analysis suggest that, unfortunately, there is little potential for increasing traffic at these communities. Most of them have always been small traffic generators and have small population bases. As a result, we are not optimistic that the operating subsidy needs for these communities can be reduced significantly or that any alternative low cost subsidy program could be developed.

The Department and the Civil Aeronautics Board did examine the possibility of a subsidy cost-sharing program with local and state governments. However, in discussions with state and local representatives, many communities indicated that they were not in a position to participate in any joint-funding programs.

AIRPORT SLOT BUY/SELL

SENATOR ANDREWS: Late last year, the Department proposed a rulemaking which would permit carriers to buy and sell slots at Kennedy, O'Hare, LaGuardia, and National. Will the Department's rule be implemented April 1, despite Congressional concern on this matter?

ANSWER: I appreciate Congressional concerns about the perceived "windfall" benefits of our rule to incumbent carriers. However, I strongly believe that our buy-sell rule is a sound and fair approach -- and the most feasible, least regulatory way -- to overcome the longstanding problems of slot allocation at the four high-density airports. We have therefore been proceeding with implementation of the rule. Key parts of the DOT rule are already in effect -- e.g., the 65% use-or-lose requirement -- while the provision allowing the sale or lease of slots will go into effect on April 1, 1986. We are in the process of determining what final action to take on our NPRM to withdraw up to 5% of the incumbent carriers' slots and reallocate them with preference to new entrant carriers. We intend to issue a Final Rule on this before April 1 and, in doing so, we are committed to striking a fair balance between the needs of incumbents and new entrants.

SENATOR ANDREWS: This proposal is troubling to those of us who feel small and medium communities have seen serious service reductions since the 1978 Deregulation Act.

That Act has led to market concentration at the large hubs. As carriers are given slots to sell (formerly a federally-controlled asset), many of us in Congress fear that carriers will further concentrate at the hubs and be forced to reduce activity at smaller airports. Why doesn't the Department propose a solution which is more equitable to the consumer?

ANSWER: The airline industry is a service industry. The carriers which make up the industry can succeed only by meeting the needs of the consumer. Our buy/sell rule removes the artificial impediments to the functioning of the markets at the high density airports that were created by the scheduling committees and by the restriction on the free transfer of slots. The rule allows the market, which is established to meet the needs of the consumers, to function more freely and efficiently. The Department believes that, from the perspective of the consumer, this is the most equitable solution that can be devised.

With respect to service to small and medium size communities, the rule provides that commuter slots cannot be used with air carrier aircraft and includes protection for Essential Air Service (EAS) operations to ensure the continuance of service to smaller communities. Since this basic market division is preserved, there is no reason to believe that there will be any large-scale abandonment of service to the communities that are now served when the buy/sell rule becomes fully effective.

SENATOR ANDREWS: Furthermore, isn't it inconsistent to propose elimination of Essential Air Service (EAS) subsidies in the budget document, yet promulgate a slot rule ostensibly protecting EAS slots?

ANSWER: The provision in the buy/sell rule permitting slots to be sold goes into effect on April 1, 1986. The Administration's proposal to eliminate the EAS program would not go into effect until October 1, 1986. Thus, we felt it was appropriate and necessary to provide safeguards for the sale of slots used for EAS service for the intervening period and, if Congress fails to act upon our proposal to terminate the program, for the remaining life of the EAS program.

SENATOR ANDREWS: When the Conrail sale was discussed, the Department established a correlation between selling a federal asset and guaranteeing transportation benefits for those currently served. In the Department's buy/sell proposal, the federal government will relinquish the slot assets at LaGuardia, O'Hare, National and JFK with neither a full market-value return to the Treasury nor a guarantee of transportation service for citizens. What is different about the airline service? Instead of giving away public ownership, why not auction slots?

ANSWER: There is really no parallel between the Conrail sale and the allocation of slots at the high density airports. In the case of the Conrail sale the government is seeking to recover the price which it paid for the assets of the bankrupt railroad and the subsequent capital investments which it made. In the case of the airport slots, we are seeking the most efficient and practical way to allocate a scarce resource that we did not purchase nor invest in to create. In fact, those assets are being given away every day in which the slots are being used -- with or without buy/sell, and the rule is only a method to allow normal market adjustments in the distribution of those slots to occur without intrusive federal regulation.

The only thing that would be gained by auctioning the slots would be to impose a substantial across-the-board cost increase on the air carriers and, eventually, on the consumers of air transportation service. Moreover, the disruption in air carrier service resulting from an auction would be tremendous. I would also add that the rule does contain provisions to ensure the continuation of service to existing users in smaller communities as noted in answer to an earlier question and that any more stringent provisions would only serve to constrain the market to the ultimate disbenefit of the traveling public.

Finally, it should be noted that ownership of slots is not being given away. The federal government has ultimate control over the slots; carriers hold and transfer them only within the constraints of the DOT rule. In this connection the rule specifically requires that slots be used, i.e., citizens are guaranteed air service.

The underlying demand that shapes air transportation service at these airports will be no different under the rule than it is now. There is nothing which now prevents the carriers from using their slots to serve different communities if they believe that the change would increase their profits, and the buy/sell rule does nothing to change the circumstances which cause the carriers to use the slots in the manner in which they are now being used. The largest application we foresee for buy/sell will be in making marginal adjustments in response to the gradual changes that occur in any ongoing market.

SENATOR ANDREWS: The 1982 experience with buy/sell appeared to result in a considerable loss of flights at small sized communities. The Department defends the fairness of its buy/sell rule by indicating that small communities themselves could buy slots in order to guarantee existing service. This amounts to an admission that small communities stand to further lose service. Why should incumbent carriers be able to charge communities for the right to land at one of these airports?

ANSWER: We do not think that small communities will lose service to any significant degree under the buy/sell regulation. Loss of service under the 1982 policy was very limited (only 9 airports lost more than 3 departures/day and some of these were large airports, e.g., Philadelphia). Loss of service under the 1985 buy/sell regulation will be much less because it applies to only 4 airports (as compared to the 22 airports which came under the 1982 policy). Furthermore, unlike the 1982 policy, which permitted commuter slots to be sold to and operated by air carriers, the 1985 regulation requires that commuter slots be operated with commuter equipment. Given the economics of service with commuter equipment, there is little danger that they will leave small community service in order to compete with jets serving large cities. Thus, our provision permitting communities to purchase slots was intended more to enable communities now lacking service to gain service than to enable communities to restore service that would be lost.

SENATOR ANDREWS: Please project out those airports most likely to reach capacity over the next five years.

ANSWER: The FAA has developed a list of airports that are projected to reach their practical annual capacity (PANCAP) by 1990. It is important to note that this is not a measure of physical capacity but, rather, a planning level which indicates that efforts should be undertaken to be ready to deal with overcrowding and delays. Moreover, at some of the airports which it has been suggested are candidates for extension of the high density rule, delays have actually decreased over the last year.

In addition, becoming overcrowded is a necessary, but not sufficient, condition for imposing the high density rule: the airport must also have an important impact on the national aviation system. Even those major airports which are very busy are not likely candidates for inclusion under the high density rule because they do not have the same impact on the functioning of the air traffic system nationally as do the current high density airports. Were they to become saturated and subject to delays on their own part, it is unlikely that the high density rule would be expanded to encompass them. Noting these additional factors, the list of airports that are expected to exceed PANCAP by 1990 is attached.

AIRPORTS WITH CONGESTION BY 1990

COMMERCIAL

* Atlanta, GA	Hartsfield	* Los Angeles, CA	International
Atlantic City, NJ	Bader Field	* Newark, NJ	International
Baltimore, MD	International	* New York, NY	Kennedy
Boston, MA	Logan	* New York, NY	LaGuardia
* Burbank, CA	Burbank	* Phoenix, AZ	Sky Harbor
Chicago, IL	Midway	Pittsburgh, PA	International
* Chicago, IL	O'Hare	* Prescott, AZ	Municipal
Colorado Springs, CO	Municipal	Raleigh, NC	Raleigh-Durham
Dallas, TX	Dallas/Ft. Worth Reg.	Salt Lake City, UT	International
* Denver, CO	Stapleton Internt'l	* San Francisco, CA	International
* Houston, TX	Intercontinental	* Santa Anna, CA	John Wayne
Houma, LA	Terrebonne	* St. Louis, MO	Lambert
Islip, NY	Mac Arthur	Tucson, AZ	International
* Las Vegas, NV	McCarran	* Washington, DC	National
* Long Beach, CA	Dougherty Field	White Plains, NY	Westchester County

GENERAL AVIATION

Anchorage, AK	Merrill	Miami, FL	Tamiami
* Arlington, TX	Municipal	Morristown, NJ	Municipal
Auburn, WA	Municipal	New Orleans, LA	Lakefront
Baltimore, MD	G. L. Martin State	Novato, CA	Gnoss
Bedford, MA	Hanscom	* Pontiac, MI	Oakland-Pontiac
* Caldwell, NJ	Essex County	San Carlos, CA	San Carlos
Chicago, IL	Pal-Waukee	* Santa Monica, CA	Municipal
Chino, CA	Chino	* Teterboro, NY	Teterboro
Dallas, TX	Addison	* Torrance, CA	Municipal
Farmingdale, NY	Republic	* Van Nuys, CA	Van Nuys
* Houston, TX	Andrau Airpark		

* Congestion exists in 1985

SENATOR ANDREWS: What is the estimated market value of a slot? What analysis has the Department done on fare impact especially for citizens from small communities flying to and from slot sale airports?

ANSWER: The market value of a slot varies considerably, depending on the airport, the time of day, and whether the slot is a commuter slot or an air carrier slot. An air carrier slot at 6 p.m. at National Airport will command a relatively high price, while commuter slots and late day slots at O'Hare will have very low market values. We investigated reports that an investment firm (Prudential Bache) had performed an analysis concluding that slots were worth $1 million each. The analyst informed us that the estimate was based on an item in Aviation Daily in which someone had speculated that slots might be worth as much as $1 million. We believe this is an exaggeration and that while a small number of the most valuable slots may be priced at $500,000, the vast majority of slots are much less valuable. The Federal Trade Commission conducted a detailed economic analysis of slots and concluded that slot values range between $20,000 and $200,000. As to the impact on fares, competition will prevent slot purchasers from freely passing on to consumers the price of a slot. That is, the purchaser will be operating in a competitive market where the majority of slots will not have been purchased and will not bear that cost. In fact, the buy/sell regulation may lead to a reduction in fares, as was demonstrated in 1982 when People Express gained entry to National Airport through a slot purchase. Even though People Express paid one of the highest reported slot prices ($2 million for 10 slots), it introduced extremely competitive, low-priced service at National, which remains in effect today.

SENATOR ANDREWS: What analysis has the FAA done on the increased system delays resulting from increased market concentration at these four?

ANSWER: No analysis of that type has been undertaken by the FAA. Since both market growth and airport concentration caused by increased hubbing are present at these airports, the Department believes that it would be highly conjectural to separate these interrelated effects.

SENATOR ANDREWS: Provide for the record a current slot use summary for the four airports, and an analysis of markets served (small, medium, large) by current incumbents.

ANSWER: Following is a list of slot holdings by U. S. air carriers at each of the four airports. The Federal government does not regulate routes and therefore we do not keep records of the points served from each airport. Furthermore, the markets served from O'Hare, National, LaGuardia, and JFK Airports are subject to change at any time by the carriers.

AIRPORT BY AIRPORT BREAKDOWN
EXCLUDING FOREIGN INTERNATIONALS

HOLDER	# SLOTS	AIRPORT	TYPE	DAYS OPER.
AVair	20	DCA	C	
Brockway Air	6	DCA	C	
Christman Air	8	DCA	C	
Colgan Airways	18	DCA	C	
East Hampton Aire	2	DCA	C	
Henson Aviation	55	DCA	C	
Pennsylvania Com.	14	DCA	C	
Pilgrim Airlines	12	DCA	C	
Pocono Air Lines	10	DCA	C	
Ransome	24	DCA	C	
Southern Jersey	10	DCA	C	
Suburban Airlines	16	DCA	C	
Wheeler Aviation	4	DCA	C	
American	26	DCA	A	
Braniff	4	DCA	A	
Continental	4	DCA	A	
Delta	30	DCA	A	
Eastern	107	DCA	A	
Midway	22	DCA	A	
Midwest Express	4	DCA	A	
New York Air	52	DCA	A	
New York Air	1	DCA	A	Except SUN
New York Air	1	DCA	A	Except SUN
New York Air	1	DCA	A	Except SAT
New York Air	1	DCA	A	Except SAT
Northwest	40	DCA	A	
Ozark	6	DCA	A	
Ozark	1	DCA	A	Except SAT
Ozark	1	DCA	A	Except SAT
Pan American	22	DCA	A	
People Express	12	DCA	A	
Piedmont	58	DCA	A	
Republic	10	DCA	A	
Trans World	36	DCA	A	
USAir	86	DCA	A	
United Air Lines	34	DCA	A	
Western Airlines	4	DCA	A	
Bar Harbor	2	JFK	C	
Command Airways	8	JFK	C	
Pennsylvania Com.	9	JFK	C	
Pilgrim Airlines	12	JFK	C	
Pocono Air Lines	8	JFK	C	
Precision Airlines	2	JFK	C	
Ransome	10	JFK	C	
Southern Jersey	4	JFK	C	
Suburban Airlines	2	JFK	C	
Air Atlanta	6	JFK	A	
American Airlines	21	JFK	A	
American Airlines	1	JFK	A	Full slot with SUN only Int'l
American Airlines	1	JFK	A	Full Int'l except TUE, FRI
American Airlines	1	JFK	A	SUN
American Airlines	1	JFK	A	Except SUN with TUE, FRI Int'l
Arrow Airways	6	JFK	A	
Arrow Airways	1	JFK	A	Except SAT
Arrow Airways	1	JFK	A	SAT
Continental	3	JFK	A	
Continental	1	JFK	A	SAT
Continental	1	JFK	A	Except SAT, SUN
Continental	1	JFK	A	SUN
Delta Air Lines	8	JFK	A	
Eastern Air Lines	26	JFK	A	
Eastern Air Lines	1	JFK	A	Except FRI, SAT
Eastern Air Lines	1	JFK	A	Full Int'l except SUN
Eastern Air Lines	1	JFK	A	Full slot, FRI only Int'l

HOLDER	# SLOTS	AIRPORT	TYPE	DAYS OPER.
Flying Tiger Line	1	JFK	A	Except FRI
Flying Tiger Line	1	JFK	A	Full slot with SUN only Int'l
Flying Tiger Line	1	JFK	A	FRI, SAT, SUN
Flying Tiger Line	1	JFK	A	FRI
Flying Tiger Line	1	JFK	A	THU, SUN
Flying Tiger Line	1	JFK	A	SAT
Flying Tiger Line	1	JFK	A	SUN
Flying Tiger Line	1	JFK	A	TUE
Flying Tiger Line	1	JFK	A	Except MON, THU, SAT
Flying Tiger Line	1	JFK	A	TUE
Flying Tiger Line	1	JFK	A	Full Int'l except TUE
New York Air	3	JFK	A	—
New York Air	1	JFK	A	SAT, SUN
New York Air	1	JFK	A	FRI
New York Air	1	JFK	A	Except FRI, SAT, SUN
Northwest	7	JFK	A	
Northwest	1	JFK	A	SUN
Northwest	1	JFK	A	SAT
Northwest	1	JFK	A	TUE,WED,THU with SAT,SUN Int'l
Northwest	1	JFK	A	Except SUN
Northwest	1	JFK	A	FRI, SAT, with SUN Int'l
Northwest	1	JFK	A	Except TUE, WED, THU
Northwest	1	JFK	A	SUN
Pan American	54	JFK	A	
Piedmont	14	JFK	A	
Pilgrim Airlines	2	JFK	A	
Pilgrim Airlines	1	JFK	A	Except SAT
Pride	3	JFK	A	
Pride	1	JFK	A	Except FRI
Pride	1	JFK	A	Except FRI
Republic	6	JFK	A	
Skybus	2	JFK	A	
Trans World	90	JFK	A	
Trans World	1	JFK	A	Except SAT
Trans World	1	JFK	A	Full slot with TUE, THU, SAT Int'l
Trans World	1	JFK	A	Full slot with FRI only Int'l
Trans World	1	JFK	A	Full Int'l except MON, TUE, WED
Trans World	1	JFK	A	Full Int'l except TUE
Trans World	1	JFK	A	Full slot with SUN only Int'l
Trans World	1	JFK	A	Full Int'l except MON, THU
USAir	5	JFK	A	
United Air Lines	11	JFK	A	
United Air Lines	1	JFK	A	Full slot with SAT only Int'l
United Parcel	1	JFK	A	Except MON, SAT, SUN
Western Airlines	2	JFK	A	
Bar Harbor	12	LGA	C	
Brockway Air	14	LGA	C	
Catskill Airways	6	LGA	C	
Command Airways	21	LGA	C	
East Hampton Aire	10	LGA	C	
Long Island Airways	6	LGA	C	
Pennsylvania Com.	6	LGA	C	
Pilgrim Airlines	54	LGA	C	
Precision Airlines	8	LGA	C	
Provincetown-Boston	23	LGA	C	
Ransome	42	LGA	C	
Southern Jersey	12	LGA	C	
Air Atlanta	4	LGA	A	
American Airlines	82	LGA	A	
Best Airlines	2	LGA	A	
Braniff	10	LGA	A	
Continental	16	LGA	A	
Delta Air Lines	70	LGA	A	
Eastern Air Lines	164	LGA	A	
Federal Express	1	LGA	A	Except MON, SUN
Federal Express	1	LGA	A	Except MON, SUN

HOLDER	# SLOTS	AIRPORT	TYPE	DAYS OPER.
Jet America	4	LGA	A	
Midway Airlines	20	LGA	A	
New York Air	74	LGA	A	
Northwest	22	LGA	A	
Ozark	6	LGA	A	
Pan American	10	LGA	A	
Piedmont	82	LGA	A	
Pride	6	LGA	A	
Republic	40	LGA	A	
Trans World	34	LGA	A	
United Air Lines	60	LGA	A	
USAir	72	LGA	A	
Alliance Airlines	8	ORD	C	
Air Wisconsin	145	ORD	C	
Britt Airlines	143	ORD	C	
Comair, Inc.	7	ORD	C	
Great Lakes	15	ORD	C	
Midstate Airlines	38	ORD	C	
Simmons Aviation	57	ORD	C	
Direct Air	6	ORD	C	
American Airlines	425	ORD	A	
American Airlines	1	ORD	A	Except FRI
American Airlines	1	ORD	A	TUE, FRI
American Airlines	1	ORD	A	THU
American Airlines	1	ORD	A	Except TUE, WED, FRI
American Airlines	1	ORD	A	Except WED, SUN
American Airlines	1	ORD	A	WED
American Airlines	1	ORD	A	THU, FRI
American Airlines	1	ORD	A	Except MON, THU, SAT
American Airlines	1	ORD	A	TUE
American Airlines	1	ORD	A	Except SUN
American Airlines	1	ORD	A	WED
American Airlines	1	ORD	A	MON, THU, SAT
American Airlines	1	ORD	A	Except WED
American Airlines	1	ORD	A	Except THU
American Airlines	1	ORD	A	Except TUE
American Airlines	1	ORD	A	TUE, FRI
American Airlines	1	ORD	A	WED
American Airlines	1	ORD	A	Except THU
American Airlines	1	ORD	A	Except TUE, FRI
American Trans Air	6	ORD	A	
USAir	32	ORD	A	
Air Wisconsin	21	ORD	A	
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SUN
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SUN
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT

HOLDER	# SLOTS	AIRPORT	TYPE	DAYS OPER.
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SAT, SUN
Air Wisconsin	1	ORD	A	Except SUN
Braniff	9	ORD	A	
Britt Airlines	13	ORD	A	
Britt Airlines	1	ORD	A	Except SAT, SUN
Britt Airlines	1	ORD	A	Except SAT
Britt Airlines	1	ORD	A	Except SAT
Continental	18	ORD	A	
Delta Air Lines	82	ORD	A	
Delta Air Lines	1	ORD	A	Except THU, SUN
Delta Air Lines	1	ORD	A	SAT
Delta Air Lines	1	ORD	A	Except SAT
Eastern Air Lines	35	ORD	A	
Eastern Air Lines	1	ORD	A	TUE
Eastern Air Lines	1	ORD	A	SAT
Eastern Air Lines	1	ORD	A	SAT
Eastern Air Lines	1	ORD	A	SAT
Eastern Air Lines	1	ORD	A	SAT
Eastern Air Lines	1	ORD	A	Except TUE
Evergreen	5	ORD	A	
Frontier Airlines	5	ORD	A	
Flying Tiger Line	4	ORD	A	
Flying Tiger Line	1	ORD	A	Except THU, FRI, SUN
Flying Tiger Line	1	ORD	A	Except SUN
Flying Tiger Line	1	ORD	A	Except THU, FRI, SUN
Flying Tiger Line	1	ORD	A	Except SUN
Jet America	16	ORD	A	
Jet America	1	ORD	A	Except SAT
Jet America	1	ORD	A	SAT
Federal Express	1	ORD	A	SAT
Federal Express	1	ORD	A	SUN
Federal Express	1	ORD	A	SUN
Northwest	65	ORD	A	
Northwest	1	ORD	A	THU, SUN
Northwest	1	ORD	A	- FRI
Northwest	1	ORD	A	Except SUN with TUE, THU-SAT Int'l
Northwest	1	ORD	A	Full slot with TUE only Int'l
Northwest	1	ORD	A	TUE
Ozark	17	ORD	A	
Ozark	1	ORD	A	Except SAT
Ozark	1	ORD	A	Except SAT, SUN
Ozark	1	ORD	A	Except SAT
Ozark	1	ORD	A	Except SAT
Ozark	1	ORD	A	Except SAT, SUN
Ozark	1	ORD	A	Except SAT
Ozark	1	ORD	A	Except SAT
Ozark	1	ORD	A	Except SUN
Ozark	1	ORD	A	Except SUN
Ozark	1	ORD	A	Except SAT
Pan American	7	ORD	A	
People Express	20	ORD	A	
Piedmont	38	ORD	A	
Piedmont	1	ORD	A	Except SAT
Republic	72	ORD	A	
Republic	1	ORD	A	Except THU
Republic	1	ORD	A	Except THU, SUN
Simmons Aviation	18	ORD	A	
Simmons Aviation	1	ORD	A	Except SAT, SUN
Simmons Aviation	1	ORD	A	Except SAT
Simmons Aviation	1	ORD	A	Except SAT
Simmons Aviation	1	ORD	A	Except SUN
Simmons Aviation	1	ORD	A	Except SAT
Simmons Aviation	1	ORD	A	Except SUN
Simmons Aviation	1	ORD	A	Except SAT
Simmons Aviation	1	ORD	A	Except SAT

HOLDER	# SLOTS	AIRPORT	TYPE	DAYS OPER.
Trans World	43	ORD	A	
United Air Lines	590	ORD	A	
United Air Lines	1	ORD	A	FRI
United Air Lines	1	ORD	A	Except TUE,FRI
United Air Lines	1	ORD	A	WED
United Air Lines	1	ORD	A	Except SUN
United Air Lines	1	ORD	A	Except THU
United Air Lines	1	ORD	A	Except WED
United Air Lines	1	ORD	A	Except WED
United Air Lines	1	ORD	A	WED
United Air Lines	1	ORD	A	Except FRI
United Air Lines	1	ORD	A	Except SUN
United Air Lines	1	ORD	A	THU
United Air Lines	1	ORD	A	TUE, FRI
United Air Lines	1	ORD	A	Full slot with SAT only Int'l
Western Airlines	5	ORD	A	

DRUG USE/TRANSPORTATION SAFETY

SENATOR ANDREWS: When will the study on licit and illicit drug use by transportation operators, announced last October, be made available? Does this effort by the Transportation Systems Center (TSC) in Cambridge supercede FAA's ongoing work on controller drug use? How much is being spent on this study? What is the point of undertaking this work at TSC when the budget proposes elimination of TSC funding?

ANSWER: The study on licit and illicit drug use by transportation operators is being done to support the Secretary's Working Group on that issue, composed of representation from all the operating administrations. The study is aimed at assessing the current state of knowledge on the subject and, while it will identify gaps as well as review existing data, it will not break new ground. It is scheduled to be completed in FY 1986. We expect a report to be available late in the summer.

The study does not supercede the FAA's ongoing work on possible controller drug use, but may support that effort by improving knowledge of drug testing techniques.

The total funding on the study is $55,000, mostly from FY 1985 TPR&D funds, but with some participation from the Federal Railroad Administration and the Coast Guard.

The work was undertaken at TSC because of prior experience on the subject by TSC staff and the rapidity with which the work could be started. This particular study is scheduled for completion in FY 1986 with the funds already allocated; however, we expect to be able to use the expertise at TSC for future year continuations if that is desirable.

TSC currently operates on funds allocated to it by the Office of the Secretary, the DOT operating administrations, and other agencies for specific, closely defined projects. As a defederalized facility, we expect that it will contract to operate in much the same manner and that the capability built up over past years will continue to be available in FY 1987 and subsequent years.

AIRLINE TOWERS

SENATOR ANDREWS: There have been reports that the FAA will be forced to close certain level I VFR towers. What is the status of such a proposal? Which towers, specifically, are proposed to be closed?

ANSWER: There is no plan to close operating towers at the present time.

SENATOR ANDREWS: Why has the Department abandoned the proposal for contract out towers, when testimony was given last year that 55 towers would be contracted out?

ANSWER: The Department has not abandoned the contract tower program. We are re-evaluating the program to determine if the program remains cost-effective. Changes in insurance rates and contractor experience at existing contract towers are examples of the topics to be studied.

MANAGEMENT TRAINING SCHOOL

SENATOR ANDREWS: Compare the number of students trained and annual training costs for FY 1984 and 1985, with comparable budget plans for FY 1986 and FY 1987.

ANSWER: A table showing the comparison follows:

TABLE OF FAA MANAGEMENT TRAINING SCHOOL ENROLLMENTS AND TRAINING COSTS

	ANNUAL ENROLLMENTS			
FISCAL YEAR	THREE INITIAL COURSES	ALL OTHER MTS CONDUCTED COURSES	TOTAL ALL MTS CONDUCTED COURSES	ANNUAL MTS * TRAINING COSTS ($000)
1984	1,227	2,706	3,933	$2,991
1985	1,169	2,548	3,717	3,413
1986	1,494	874	2,368	2,437
1987	1,236	2,900	4,136	3,905

* FY 1984 and 1985 are actual data, FY 1986 and 1987 are estimated. FY 1986 reflects the effect of PL 99-177 reductions.

SENATOR ANDREWS: Is it true that the Management Training School (MTS) curriculum has been reduced to only two supervisory and one management class?

ANSWER: Yes, only the two mandatory supervisory initial courses and the one mandatory management initial training course are still being conducted at MTS for the remainder of FY 1986. These three courses, however, constitute the majority of the training that is actually given at MTS. They are given a number of times during the year, with a total of nearly 1,500 student enrollments this fiscal year.

SENATOR ANDREWS: Does this radically scaled-back training schedule justify a new request for bids on an alternate-type facility?

ANSWER: The two mandatory initial supervisory courses and the mandatory management initial course constitute the majority of the agency's training at MTS in FY 1986, and these courses will continue to be conducted at full program levels through FY 1987. Further, in FY 1987, the agency hopes to reinstate at least half of the recurrent management and special purpose classes that had to be cancelled in FY 1986 because of budget cutbacks. Since many of these recurrent management and special purpose classes are actually given at field locations rather than at MTS, the amount of classroom space needed at MTS is not greatly affected. Therefore, given the agency's projected needs for facility space in FY 1987, we do not believe a new request for bids is justified on an alternate-type facility.

SENATOR ANDREWS: How can the Department justify cutting back FAA management training given the reasons for the 1981 controller strike?

ANSWER: The agency's cancellation of recurrent management training and special purpose training is merely a deferment in FY 1986. It is not a permanent cutback. The FAA has maintained the full program load of mandatory initial supervisory and initial management training. Newly selected managers and supervisors are required to receive this critical initial training. In addition, the FAA continues to encourage locally conducted or arranged training such as attendance at local college and university courses. Therefore, the adverse impact on the quality of supervision in the FAA should be minimal. The FAA's intent is to reinstate the recurrent and special purpose courses as soon as the budget allows.

SENATOR ANDREWS: Do you not agree that any changes to the existing U.S.-Japan Air Transport Agreement should be delayed until the full impact to U.S. interests has been assessed?

ANSWER: The negotiations now in progress with Japan are aimed at expanding the opportunities for both countries. I can assure you that the Department will not support any changes to the existing U.S.-Japan Air Services Agreement that are not in the interest of the U.S. aviation industry and in keeping with U.S. aviation objectives.

NORTHWEST-REPUBLIC MERGER

SENATOR ANDREWS: What is the Department's timetable for consideration of the Northwest-Republic merger?

ANSWER: Our preliminary review of the proposed transaction between NWA, Inc. (the parent of Northwest Airlines, Inc.) and Republic Airlines raises competitive concerns that deserve further study. At this time, we do not have sufficient information to make any statement regarding potential labor issues.

The informal procedures and written submissions, along the lines proposed by the Department of Justice (DOJ) and the applicants, will be helpful in providing additional information to reach a decision as to how to proceed in this case. Indeed, this information may obviate the need for a formal evidentiary hearing. However, this information may also reveal a need for more formal and lengthy procedures, such as an oral evidentiary hearing. Should this occur, certain rather time-consuming procedures will have to be completed by early April in order for the Department to reach a decision on the proposed transaction by the statutory deadline (July 31, 1986, six months after the application is filed).

While the Department has granted the requests of DOJ and the joint applicants for an "informal discovery period," followed by the filing of detailed substantive comments on March 27, 1986 (and procedural comments on April 4, 1986), it is necessary to establish a timetable and procedural guidelines to ensure the timely development of an adequate record. Accordingly, the Department will issue an Order (86-3-2) on March 3, 1986, directing interested parties to serve and file any information requests or interrogatories by March 7, 1986. Further, the parties responding to information requests or interrogatories were directed to serve and file their responses thereto by March 17, 1986. (Motions objecting to discovery requests shall be filed within three calendar days of receipt of the request, and answers to such objections shall be due three calendar days thereafter.)

In addition, the Department directed interested persons to file detailed comments on the merits of the Joint Application, including direct exhibits containing the evidence and data upon which those comments rely, by March 27, 1986. (If it is determined that it is necessary to hold an oral evidentiary hearing, the evidence contained in each party's March 27 submission will constitute that party's direct exhibits.) Finally, interested persons were directed to file comments on any additional procedures that are needed to resolve this case by April 4, 1986.

HIGHWAY PROGRAM LEVEL AND NEEDS

SENATOR ANDREWS: The Department's recently transmitted surface transportation legislation contains annual authorizations for the Federal-aid highway and highway safety programs of $12.9 billion, including $2.2 billion that is provided for the ground transportation block grant. How were these program levels determined? What considerations other than deficit reduction led to your proposing a 17 percent reduction from FY 1986 in highway program budget authority?

ANSWER: This budget submission and funding levels in the reauthorization legislation are based on a "deficit neutral" policy whereby authorizations are set equal to Trust Fund receipts averaged over four years, exclusive of interest. This proposal is consistent with the overall effort to reduce the Federal deficit and to avoid the automatic imposition of further reductions through operation of "Gramm-Rudman". Annual authorizations of about $12.9 billion are proposed for the highway program starting in FY 1987. This compares to a figure of $14.9 billion for FY 1986 and represents a decrease of about 13 percent.

Our reauthorization proposal was influenced by the consideration that the proposed authorizations represent the historic Federal share of total capital investment required to maintain 1983 physical conditions on the Interstate and primary systems, the systems of major national and regional significance. The Interstate and primary bridge authorizations are based on the historic Federal share to reconstruct or rehabilitate system bridges with existing structural, or safety, deficiencies.

The proposed $2.2 billion authorization for FHWA's portion of the Highway and Transit Block Grant is approximately equal to the funding for the programs replaced by the block grant. These are the secondary program, the urban program and the non-primary portion of the bridge program.

Our decision to propose lower funding levels was buttressed by the knowledge that the Surface Transportation Reauthorization Act of 1986 is also proposing a major restructuring of programs to provida maximum flexibility to the States in the use of funds. The major aspects of this restructuring are the creation of the Highway and Transit Block Grant and the Interstate/primary program, which combines the Interstate construction, Interstate 4R, and the Federal-aid primary programs.

SENATOR ANDREWS: Are these program levels adequate to meet highway needs?

ANSWER: The proposed authorization levels would be sufficient to maintain 1983 physical conditions on the Interstate and primary systems, meet needs for structurally deficient Interstate and primary bridges, and continue FY 1986 levels of Federal spending on the secondary and urban systems.

SENATOR ANDREWS: How does this level of funding compare with the historic Federal share of needs on these major highways?

ANSWER: Funding for maintaining the condition of existing major Federal interest highways increases considerably under our proposal. The Surface Transportation Assistance Act of 1982 authorized an average of $4.75 billion a year for the Interstate 4R and the primary programs taken together. The Surface Transportation Reauthorization Act of 1986 would authorize $3.4 billion to be apportioned to the States using the current Interstate 4R formula and $2.8 billion via the existing primary formula. This comes to a total of $6.2 billion a year. This sum is part of combined Interstate/primary program which is authorized at $7.8 billion a year and and includes $1.6 billion a year apportioned using the current Interstate construction formula. All of the $7.8 billion can be used for rehabilitation or construction of major Federal interest highways at State discretion.

SENATOR ANDREWS: Doesn't deferral of meeting highway needs just increase the ultimate cost to the taxpayers?

ANSWER: We are maintaining the Federal share of needs. We have structured our program to emphasize preservation of existing major highways over the construction of new facilities. For example, we have reduced funding distributed by the Interstate cost-to-complete and Interstate substitute funding.

HIGHWAY TRUST FUND BALANCE

SENATOR ANDREWS: Your surface transportation reauthorizing legislation proposes to limit funding for highway construction, highway safety and transit programs supported by the Highway Trust Fund to the average amounts collected annually from highway user fees. Would the trust fund continue to accrue interest on its present balance of more than $11.5 billion? Why are the authorizations based on revenues excluding interest?

ANSWER: Yes, interest would continue to accrue to the Highway Trust Fund and would be available at a later time, as the deficit problem is resolved. The authorizations are based on revenues excluding interest so that the highway program does not affect the Federal deficit over the four year term of our reauthorization bill. If the interest amounts were added to the proposed authorizations, the Federal deficit would be increased by about the amount of the annual interest.

SENATOR ANDREWS: What would the projected balance of the trust fund be by 1990 under the terms of your proposal?
ANSWER: We estimate that the beginning cash balance of the Highway Trust Fund would be $15.9 billion by 1990 under our proposal.

SENATOR ANDREWS: Is it fair to the highway user to withhold these dedicated revenues in an effort to balance the budget?
ANSWER: We think the policy is fair to the highway users because it makes full use of highway user fees for transportation improvements but does not spend the Treasury payments into the fund in the form of interest, which is contributed by the general taxpayers.

COMBINED INTERSTATE/PRIMARY PROGRAM

SENATOR ANDREWS: Your proposed surface transportation reauthorizing legislation would combine the Interstate construction, Interstate 4R and primary programs at an annual authorization level of $7.843 billion compared to the $9.610 billion authorized for these programs in FY 1986. Please explain how this combined program would work. Given the longstanding Federal commitment to complete the Interstate system, what assurances are there, with such a combined program, that high priority Interstate segments will be built?
ANSWER: We propose to combine the Interstate construction, Interstate 4R and the Federal-aid primary programs into a single combined program funded at approximately $7.8 billion per year for the next four fiscal years. About $1.6 billion would be apportioned to the States using the current Interstate construction formula, $3.4 billion using the current I-4R formula, and $2.8 billion via the existing primary formula. The combined funds would be eligible for use on all three types of projects with the split determined solely by the States, but the Federal share for projects on the Interstate system will be 90 percent compared to 75 percent for projects on the primary system.

We have completed more than 97 percent of the Interstate system. Most gaps in the Interstate system are under construction. We believe that States will continue to work on these gaps. In addition to Interstate/primary funds, States are free to use Highway and Transit Block Grant funds for Interstate construction.

SENATOR ANDREWS: Why are you abandoning this commitment to provide assured funding for Interstate completion? Isn't this approach unfair to States that have completed their Interstate system or that have withdrawn routes and will continue to receive separate Interstate substitution funding? Does this proposal jeopardize the completion of links that are essential to national defense or interstate commerce?
ANSWER: We will be providing an annual allocation of about $1.6 billion for the Interstate construction portion of the combined Interstate/primary highway program. The proposed allocation formula for the $1.6 billion is based on the cost to complete the Interstate system. Those States that have completed

their portion of the Interstate system will not receive a part of the $1.6 billion.

States will also have the flexibility to accelerate Interstate construction by using I-4R and primary funds, without any decrease in future Interstate construction apportionments. Under current law, the transfer of primary funds to accelerate Interstate construction work decreases future Interstate construction apportionments.

Our proposal would stretch out the completion of the Interstate substitution program to 1998. Therefore, it is incorrect to say that States with Interstate substitution projects are given better treatment than States that are still working on Interstate construction projects.

Our proposal would not adversely impact national defense or interstate commerce; virtually all essential Interstate gaps are already under construction or planned for construction in the near future.

BLOCK GRANT

SENATOR ANDREWS: Please explain briefly how your proposed ground transportation block grant would operate.

ANSWER: The Department proposes a block grant in lieu of the present urban, secondary, and non-Federal-aid primary bridge programs to be authorized from the Highway Account of the Highway Trust Fund at a level of $2.2 billion annually. This would be combined with sums from the Mass Transit Account (MTA) thereby resulting in a block grant for highway and mass transit improvements of approximately $3.3 billion per year.

Block grant funds from both accounts could be used for highway and mass transportation capital projects. The State or local match would be 25 percent for both highways and transit capital projects (50 percent for transit operating assistance). Urbanized areas with a population under 200 thousand and rural areas could use block grant funds for operating assistance up to 1985 levels. The least possible number of grant requirements would be imposed. These would be satisfied by State assurances that certain Federal requirements (e.g., civil rights, environmental protection and encouragement of private sector participation in transit) are met.

SENATOR ANDREWS: How does North Dakota fare under your proposed legislation for the combined Interstate/primary program and the Ground Transportation Block Grant program?

ANSWER: North Dakota gets back more money than the State puts into the Highway Trust Fund. In FY 1987, North Dakota will pay an estimated $53.2 million into the Highway Trust Fund. This includes $4.2 million into the Mass Transit Account of the Highway Trust Fund. In FY 1987, North Dakota would get back an estimated $72.3 million in apportioned funds.

Summary of North Dakota's FY 1987 Apportioned Funds

(BA in $ million)

Interstate/Primary		$47.6 million
Interstate Construction Component	-0	
I/4R Component	$26.3 million	
Primary Component	$21.3 million	
	$47.6 million	
Primary Bridge		$ 2.5 million
Hazard Elimination		$ 1.3 million
Railroad-Highway Crossing		$ 3.3 million
Highway & Transit Block Grant		$18.5 million
Highway Portion	$17.6 million	
Transit Portion	$ .9 million	
TOTAL		$72.3 million

SENATOR ANDREWS: Is the funding provided large enough to compensate for the elimination of the programs to be funded under the block grant?

ANSWER: Yes, the formula for distributing the highway portion of the grant would provide approximately the same amounts each State would have received under the existing categorical programs.

SENATOR ANDREWS: What assurances are there that rural highway needs, presently addressed through the secondary system program, would be met under this proposal? Is there a mandatory pass-through, similar to that for large urbanized areas, for rural areas?

ANSWER: There is no mandatory pass-through for rural areas similar to the pass-through for large urbanized areas. We are confident that States will allocate funds to address highway needs throughout the State, including needs in rural areas. Most States already have established procedures for suballocating funds within the State. States are free to continue these procedures if they wish.

SENATOR ANDREWS: Why should urbanized areas over 200,000 population, to which a portion of the funding will be passed through, not be permitted to use these funds for operating assistance?

ANSWER: The availability of Federal operating subsidies distorts local decisionmaking and relieves local officials of having to bear financial responsibility for the service, fare, and labor negotiation decisions they make. Transit labor receives total compensation from 50 to 100 percent higher than their counterparts in the private sector. The availability of the subsidy has allowed transit agencies to avoid developing more equitable and higher yielding fare structures. Rather than rely on Federal subsidies, localities need to reexamine their needs and establish a competitive market for meeting them. Without a competitive atmosphere for acquiring transit service, local and Federal taxpayers have no assurance that the disciplines of the marketplace are working to ensure maximum efficiency and productivity.

The Administration does not expect any significant difficulties for large urban areas in adjusting to elimination of operating subsidies. In fact, ending Federal operating subsidies is very likely to speed up serious action to create a competitive transit environment and improve efficiency.

SENATOR ANDREWS: If the intent of the block grant is to provide greater flexibility to State and local areas, and given the fact that areas under 200,000 population can use some of these funds for transit operating assistance, why should the States not be permitted to use a portion of these funds for highway maintenance purposes?

ANSWER: Federal highway funds cannot be used for routine maintenance. The longstanding agreement is that the Federal government is responsible for helping to pay for the construction of certain highways while the States and local governments are responsible for maintaining these highways. The Administration has reluctantly agreed to propose the continuation of operating assistance in small urbanized and rural areas. Some smaller areas are heavily dependent on Federal operating subsidies in the sense that a large percentage of operating costs are covered by Federal subsidies. No similar dependence on Federal funds for routine highway maintenance exists, and we do not wish to foster such dependence.

INTERSTATE TRANSFERS

SENATOR ANDREWS: In light of your proposal to eliminate a discrete Interstate construction program, why retain a separate Interstate substitution program?

ANSWER: We propose to continue apportioning funds based on the Interstate cost-to-complete and we propose to continue funding for the Interstate substitution program at a reduced funding level of $500 million for highway and transit substitute projects. Funding for the substitution program is not subject to inflation and overruns. So stretching out the program will not increase overall Federal funds needed. Substitution funding can be used for the highest priority highway or transit projects in the withdrawal areas. The substitution program provides substantial flexibility in the utilization of Federal funds for the withdrawal areas.

SENATOR ANDREWS: How do you justify financing transit substitute projects from the Highway Trust Fund, especially given the greatly reduced funding level?

ANSWER: The Administration's proposal to fund Interstate Transit substitution projects from the Highway Trust Fund is very much in line with the original intent of the Interstate Transfer program. This consolidation of Federal funding sources would eliminate the inefficient patterns of local officials making project decisions based on the availability of funds from various sources rather than on sound local transportation objectives. Such flexibility in the use of Federal transportation funds is one of the major benefits of our proposal.

SENATOR ANDREWS: When will the Interstate transfer program be complete at the funding level you are proposing?

ANSWER: Our proposed funding level of $500 million would complete funding for Interstate substitute highway and substitute projects in 1998.

SENATOR ANDREWS: What special accommodation is made for the recent New York State withdrawal?

ANSWER: The Interstate construction and Interstate substitution cost estimates approved on September 30, 1985, did not reflect the withdrawal of Westway. As a result, the FY 1987 Interstate construction apportionment for the State is high and the FY 1986 substitution apportionments for New York City are low.

Section 329 of the FY 1986 DOT Appropriations Act permits Interstate construction funds apportioned to New York during FY 1986 to be expended on New York City substitute highway projects through the end of the fiscal year. Highest priority is to be given to Interstate completion projects. The standard participation ratio of 85-15 applies to the substitute projects and withdrawal values are reduced by amounts obligated for substitute projects. We understand that up to about $150 million Interstate construction funding could be obligated for substitute highway projects.

MINIMUM ALLOCATION

SENATOR ANDREWS: Given the efforts to reduce the Federal deficit, why does the Department's legislation continue the minimum allocation program? Don't you feel that program needs are being met by the formula program? What essential purpose does this program serve?

ANSWER: The minimum apportionment is based on the idea that each State should get back a sizeable share of the money it contributes to the Highway Trust Fund. We believe this concept of equity should be retained. In FY 1986, the cost of this provision was over $600 million. We estimate that, under our proposal and without a cap, it would cost $337 million in FY 1987. The proposed $250 million cap preserves this principle of distribution without unduly distorting budget priorities. An unrestrained minimum apportionment would drain funds needed for critical infrastructure needs.

CONRAIL SALE

SENATOR ANDREWS: Madam Secretary, just recently the Conrail Acquisition Corporation increased its offer for Conrail from $1.65 Billion to $1.8 Billion. In addition, the Morgan Stanley Group is offering $1.4 billion. In light of these offers, have you reconsidered your support of the Norfolk Southern offer?

ANSWER: No. The Department is fully committed to a long-term viable solution that best serves the public interest and not some short-term proposal that simply enhances an investor group. The Norfolk Southern transaction as provided for under S.638 contains strong public interest covenants backed by the total resources of a company rated A plus by Value Line in terms of financial strength. Further, the Norfolk Southern brings management skills in rail transportation with a superior track record in terms of service, labor and regional impacts. The Norfolk Southern purchase of Conrail would enhance the total transportation environment in the Northeast and with the planned divestitures, add a procompetitive element in the Midwest. The Norfolk Southern's offer also removes the risk element identified with other current offers; leaves Conrail in a stronger financial posture necessary to weather the cyclicality inherent to the industry -- particularly in the Northeast; does not encumber Conrail assets or drain any of its cash resources to consumate the deal, and does not require payment of excessive dividends to market the stock. I believe that these advantages advance the public interest substantially more than any other offer.

SENATOR ANDREWS: What amount would another investor have to offer before you reconsider the Norfolk Southern proposal?

ANSWER: The Northeast Rail Service Act of 1981 (NERSA) established three criteria for the sale of Conrail stock with price the last of the three considerations. In response to the rather explicit legislative mandate, I established the following criteria to evaluate and select the best deal consistent with the legislative intent:

1. The financial strength of the Corporation;

2. The impact of the offer on Conrail's ability to serve its shippers and communities; and

3. The financial return to the Government.

The Norfolk Southern proposal best meets these criteria and today remains superior despite recent actions by Morgan Stanley and Allen & Company. The ability to "ensure continued rail service" is best achieved through a strong commitment with a proven track record in providing quality transportation service, a strong financial position, and agreement to a series of tough public interest covenants. In addition, the Norfolk Southern proposal, unlike the other two, substantially reduces the Government's future risks.

Price represents a major but not the decisive factor in making a strong case. The willingness and financial strength to ensure fulfillment of the strong public interest covenants has to be important. Offers that claim to accept these covenants, are only as good as the entities making the guarantees. We don't believe a stand-alone Conrail stripped of assets, encumbered with new debt and paying dividends beyond its means can financially handle, over any sustained period, the cyclicality inherent to the industry -- particularly in the Northeast -- and be consistent with the assurance Congress sought when it passed NERSA.

SENATOR ANDREWS: During Senate consideration of the Conrail sale, an amendment was defeated which would have subjected the sale to further anti-trust review and remove immunity from anti-trust review that S.638 provides. Why is the Department against this provision?

ANSWER: The proposed sale to Norfolk Southern is already subject to the strictest anti-trust review given any rail merger in this century. In NERSA, Congress exempted this sale from Interstate Commerce Commission (ICC) review and reserved final judgment to itself. The ICC operates only with authority delegated from Congress; since Congress has taken back the delegated authority in this one instance and has engaged in unusually extensive review, there is nothing to be gained by further anti-trust review. The only likely result of further review is unjustifiable delay in an already lengthy process.

Other rail mergers are subject to review by the ICC, which weighs anti-trust considerations in the balance with other factors bearing on national transportation policy in determining whether to approve a merger. The Justice Department participates in those merger proceedings as an advocate for national anti-trust policy. History amply demonstrates that the Justice Department consistently takes stricter anti-trust positions on mergers than the ICC does. Here, the sale of Conrail to Norfolk Southern depends upon passing the strict muster of the Justice Department's anti-trust review, unmitigated by the national transportation policy concerns the ICC traditionally considers as well.

The immunity provided by S.638 for the proposed sale is critical to its successful implementation. Please understand that this immunity extends only to this transaction: implementation of the Memorandum of Intent between the Department and Norfolk Southern, the divestitures from Norfolk Southern/Conrail to Guilford Transportation Industries and the Pittsburgh and Lake Erie Railroad, and coordination of Conrail with the Norfolk & Western and the Southern Railroad. Other actions by Norfolk Southern or its subsidiaries receive no immunity. This is the same immunity granted to all other mergers approved by the ICC. There is no reason why a merger approved by Congress should receive less immunity than one approved by the ICC. Moreover, the absence of immunity would permit opponents of the merger to tie it up in court, potentially for years, without foundation. The absence of immunity would make the sale unworkable.

SENATOR ANDREWS: Do you know for what purpose the Justice Department is hiring an outside consultant?

ANSWER: The contract between DOJ and R. L. Banks and Associates states the purpose to be: "The Contractor shall provide expert analytical services to the Transportation, Energy and Agriculture (TEA) Section, Antitrust Division, Department of Justice, in the areas of railroad engineering, operations, marketing, and finance, in connection with the proposed sale by the federal government of Consolidated Rail Corporation (Conrail) to Norfolk Southern Corporation (NS)."

SENATOR ANDREWS: When do you expect the Justice Department review of the proposed divestitures to be complete?

ANSWER: The date of contract award is February 14, 1986. Contract completion is scheduled for fifty days later.

SENATOR ANDREWS: Why didn't you think it was necessary for the Senate to have the Justice Department review completed before it took up the Conrail sale?

ANSWER: The answer to this question was provided by Mr. Ginsburg, the Assistant Attorney General to members of the Senate Judiciary Committee. Mr. Ginsburg explained:

"The Department of Justice routinely, and indeed with increasing frequency, is in the position of analyzing complex transactions, including divestiture proposals, for the purpose of antitrust analysis, and we do so on the basis of the trust that we've been given by the laws enacted by the Congress of the United States.

When we reach our conclusions, we announce them or act on them, if they require litigation. And we have not, in the past, been asked to come back to the Congress on each transaction we analyze for supervision about the way in which we're discharging our duties. So I hope that the Senate will, in light of the way in which we've operated in the past, without criticism in this regard, see fit to enable us to go about our work without having that vote held up until we dot all the i's and cross all the t's, secure in the knowledge that we will do so.

Let me say that the cost of the Senate's waiting on this matter is not insubstantial. The parties are -- have been willing to invest resources in planning, but the uncertainties surrounding the ultimate doability, the consummation of this transaction, is certainly increased when it becomes a subject of political dispute and of controversy in the Senate. And I think that -- confident that the competitive concerns have been addressed and will be fully addressed in detail before any transaction is consummated, the Senate should remove that degree of uncertainty within its power by ratifying the transaction in principle."

SENATOR ANDREWS: Is there any scenario under which you would withdraw your support of S.638? If yes. Please explain. If not. Why not?

ANSWER: No. I would not withdraw my support of S.638. I believe the bill as passed is basically a good bill which adequately addresses both the statutory mandate and the criteria that I established. I believe that its passage indicates that it is the will of the Senate that S.638 becomes law.

It is conceivable that I would not support S.638's companion House Bill if it were reported out of committee in a substantially altered state that would not adequately fulfill the criteria which I have established based on a Congressional mandate.

CONRAIL QUESTIONS

SENATOR ANDREWS: Madam Secretary, the Northeast Rail Service Act authorized the Department to negotiate a sale of the interest of the United States in Conrail's common stock. The sale plan you negotiated with Norfolk Southern requires Conrail's employees to also sell their stock. Pursuant to what authority did you negotiate with Norfolk Southern this requirement that the employees sell their employee stock option plan (ESOP)?

ANSWER: First, the Memorandum of Intent I signed with Norfolk Southern does not require Conrail's employees to sell their interest in the ESOP. The Memorandum of Intent contains a condition precedent to the sale that Norfolk Southern or Conrail negotiate "appropriate arrangements" with Conrail's employees for, among other things, Norfolk Southern to acquire the ESOP's beneficial interest in Conrail. Norfolk Southern wants to own all of the common stock of Conrail so that it can coordinate Conrail's operations with those of its other rail subsidiaries without objections from minority shareholders. Conditions precedent of this sort are typical of many business transactions and I negotiated it under the authority given me by section 1142 of NERSA (section 401 of the Regional Rail Reorganization Act of 1973).

Contrary to what some would have you believe, this takes nothing away from Conrail employees who are beneficiaries of the ESOP. Those who have vested interests in the ESOP have the right to receive, in 1991, preferred stock in Conrail Equity Corporation which can be exchanged for either Conrail common stock or equivalent value at Conrail's option. It appears likely that the ESOP beneficiaries will be better off under the proposed sale because they would receive the value of their ESOP interests now rather than in 1991.

SENATOR ANDREWS: Paragraph 2(iv) of the Memorandum of Intent cites Exhibit "A" as "A summary of the buyer's proposed arrangements with respect to certain rights, options and wage claims of Conrail employees...". Have the employees or their representatives agreed to the terms of Exhibit A? If not, are there any agreements to which the employees and Norfolk Southern have agreed in relation to this issue?

ANSWER: No. Conrail's employees and their representatives have not reached any agreements with Norfolk Southern to our knowledge.

SENATOR ANDREWS: Paragraph 2 also requires Norfolk Southern or Conrail to have entered into "appropriate arrangements" with respect to employees "at or prior to (sale) closing." Assuming the employees have not agreed to the terms of Exhibit A, what further steps are you taking to ensure satisfaction of the "rights, options, and wage claims of Conrail employees," as required under paragraph 2(iv)?

ANSWER: We are encouraging the parties to negotiate with each other, but it is Norfolk Southern's responsibility to negotiate arrangements with Conrail's employees, not the Department's responsibility. I understand that Norfolk Southern is prepared to negotiate those matters with representatives of the employees at any time. It is likely that passage of S.638 by the Senate did a great deal to encourage those negotiations to occur.

SENATOR ANDREWS: Citing Exhibit A, Norfolk Southern proposes to provide the employees a $375 million lump sum as payment for the ESOP and to satisfy employee wage claims. Please provide a breakdown on how this money is to be divided in order to satisfy the ESOP and wage claims of current employees, former employees, and retirees.

ANSWER: The Memorandum of Intent does not break down the $375 million among the various uses to which it may be put. That should be done in negotiations between Norfolk Southern and representatives of Conrail's employees. The Memorandum of Intent sets out what Norfolk Southern is committed to offer to Conrail's employees. Of course, Norfolk Southern and rail labor may negotiate changes in this package, including other types of benefits and allocation of the funds among the various types of benefits.

The Conrail ESOP, however, should be handled a little differently than other employee benefits. Some of the beneficiaries are not represented by rail labor and the value of the ESOP's rights and of the rights of the ESOP beneficiaries is not clear. At the maximum, the stock that could be transferred to the ESOP in 1991 might be worth as much per share as the Government will receive--a value that has been established through competitive bidding on the open market. On the other hand, the shares now set aside for the ESOP are probably worth less than the shares held by the Government because (1) none of the Conrail common stock is marketable unless the Government cancels the Conrail debentures and preferred stock it holds, (2) the Government is arguably receiving a control premium, and (3) the ESOP and its beneficiaries would not receive any Conrail common stock under the terms of the ESOP until 1991, so any value attributed to that stock should be discounted back from 1991. Probably the best way to value those rights is to offer beneficiaries a choice between simply being paid the value per share that Norfolk Southern pays the Government for Conrail common stock or having a valuation proceeding before the Special Court.

The total value of the rights of the ESOP and its beneficiaries will also vary depending upon when the sale to Norfolk Southern occurs because, as time passes, ESOP beneficiaries will be entitled to the equivalent of more shares of Conrail common. If the ESOP were terminated today, beneficiaries would have vested rights to the equivalent of about 7.5 percent of the outstanding Conrail common, whereas by 1991 beneficiaries would have vested rights to the equivalent of the entire 15 percent of Conrail common that was initially set aside for the ESOP.

STAGGERS ACT -- INTERSTATE COMMERCE COMMISSION (ICC)

SENATOR ANDREWS: In the wake of the proposed Conrail sale, a number of new captive shippers is created. Do you believe that captive shippers are adequately protected from monopoly rates and service abuses? Does the Department believe that the complaints about the ICC brought by captive shippers are legitimate?

ANSWER: In the case of the sale of the Government's interest in Conrail to the Norfolk Southern, the Secretary asked the U.S. Department of Justice to review the potential effects on competition before the final selection of a purchase bid was made. The Antitrust Division of the Justice Department conducted an independent, rigorous and objective analysis of the proposed sale to Norfolk Southern. In a letter dated January 29, 1985, the Justice Department identified specific markets in the Northeast in which competition would likely be reduced by a Norfolk Southern-Conrail merger, and called for a program of divestitures that would maintain the competitive balance in those markets by leaving shippers with the same number of competitive options as they had before the merger. After the Norfolk Southern's bid was recommended to the Congress, Norfolk Southern began the process of negotiating divestitures, in accordance with the Justice Department's requirements. Final acceptance by the Justice Department of the Norfolk Southern's divestiture plan will constitute a conclusion that the sale will not reduce competition. In fact, the competitive status of many shippers in the Conrail region will be enhanced by extension of single-line service, reopening of a large number of closed joint routings, and introduction of additional railroads into many major Conrail markets. The Department believes that the system of rail regulation currently administered by the ICC does afford adequate protection for shippers when there is no effective competition for particular shipments (a shipper is "captive"). The ICC's recently adopted standards for determining maximum reasonable rail rates and for regulating competitive access provide for protections from excessive rates, anticompetitive route closings, or other unreasonable rate and service actions, as intended by the Congress.

Although some coal-burning electric utilities and coal producers have expressed concern about high coal rates, the data available on shipper experiences since the Staggers Act do not indicate that railroads have raised rates excessively or that railroads are earning excess profits. The ICC has found that nearly 85 percent of coal traffic is hauled at rates below the threshold established by the Staggers Act as *per se* reasonable and, therefore, outside ICC jurisidiction. The problems reported by shippers are not systemic; instead, they generally involve difficult but somewhat isolated individual cases. Often, they are related to conditions dating back before the Staggers Act.

The coal rate guidelines protect a shipper against having to cross-subsidize other shippers by paying for facilities and services which it does not use, or making up for inefficiencies in handling or pricing other traffic. At the same time, the guidelines take into account railroads' need to earn adequate revenues and to adjust rates to respond to market conditions. The effects of the ICC's new rate guidelines can only be determined as individual cases are decided. However, we believe that the guidelines as adopted provide a sound framework for reaching rate decisions that will meet economic tests of efficiency and also meet the statutory goals to maintain just and reasonable rates where competition is not effective.

SENATOR ANDREWS: Who protects them now? Who will protect them if, as proposed, the ICC is abolished at the end of Fiscal Year 1986?

ANSWER: The ICC provides regulatory protection as described above. In the proposed "sunset" of the ICC, the statutory responsibilities to carry out rail regulation would be transferred to other agencies intact. Rate and service regulation would be carried out at the Department of Transportation.

SENATOR ANDREWS: Madam Secretary, the Interstate Commerce Commission in the past has never found a railroad to be revenue adequate yet the Norfolk Southern is able to bid $1.2 billion to acquire Conrail. Do you believe that past reviews of revenue adequacy have been correct?

ANSWER: Under the ICC's current revenue adequacy standards the Commission has not found any of the Class I railroads "revenue adequate." The Department has no role in those particular determinations. In general, however, the Department supports the ICC's revenue adequacy standards. We believe that a cost of capital standard closely matches the language of the statute that the railroads should be able to earn revenue levels adequate to cover debt and also to attract sufficient new capital to support additional capital investments required over the long-term. Railroad earnings have improved considerably since the Staggers Act, but most railroads do not generate a rate of return on their substantial physical investments comparable to returns offered on competing investments or to the railroads' own cost of capital. Those benchmarks are critical parts of the revenue adequacy standards that the Congress directed the ICC to apply. The ICC continues to review its revenue adequacy standards and the Railroad Accounting Principles Board is also studying issues related to the revenue adequacy question. We are confident that any necessary adjustments will be made to the standards and methodology should deficiencies be discovered.

The Department acknowledges that the Norfolk Southern is a profitable railroad, but the question of revenue adequacy is different from simple profitability. A railroad may be profitable, in the sense that it takes in more than it pays out, but it may still not be earning a return in the long term that will permit it to attract and retain necessary debt and equity capital, in competition with alternative investments. That is the statutory test of adequate revenues.

SENATOR ANDREWS: It is the Committee's understanding that the Association of American Railroads is opposed to abolishing the ICC unless all regulatory review of rail rates is abolished. Is that necessary?

ANSWER: The Department does not believe that the continuation of existing federal economic regulation of the railroads should be tied to the continued existence of the ICC as a regulatory agency. Our proposal is to transfer intact the responsibilities for regulation of rail freight to existing executive branch agencies. The rail regulatory functions thus can and will be preserved, even though the body that has performed them no longer exists as a separate agency.

SENATOR ANDREWS: In the Fiscal Year 1987 budget proposal, the Department has assumed the absorption of 155 ICC employees at a cost of $7.8 million. What would these employees do? How much of these resources would be devoted to rail matters, to trucking matters, or to bus matters?

ANSWER: All of these employees and resources would be devoted to railroad regulation. Currently at the ICC these staff people oversee such issues as abandonments, revenue adequacy proceedings, merger applications, contract filings, and rate cases as well as issues involving competitive access.

INTERSTATE COMMERCE COMMISSION

SENATOR ANDREWS: Do you know what ICC resources would be transferred to the Justice Department? To the Federal Trade Commission?

ANSWER: Legislation is being prepared to sunset the Interstate Commerce Commission, with rail antitrust matters to be transferred to the Justice Department. $3.4 million and 68 positions are included in the DOJ budget for transfer with these functions. Jurisdiction for consumer protection for transportation of household goods by motor carriers and freight forwarders would be transferred to the Federal Trade Commission.

An estimate of related costs and/or positions has not been made at this time. This transfer requires a budget amendment since the President's Budget includes only a transfer of staff and dollars to DOT and DOJ.

SENATOR ANDREWS: What is necessary for the abolishment of the ICC to become a reality? In other words, is the Department going to be sending up proposed new legislation in the trucking area, in the rail and bus area? When?

ANSWER: The Administration will be sending up proposed new legislation to completely eliminate Federal economic regulation of the trucking, surface freight forwarder, interstate water carrier, intercity bus, rail passenger and ferry operations, and interstate pipeline companies other than water, gas and oil.

Currently, the proposed legislation is undergoing review within the Administration.

SENATOR ANDREWS: If further truck deregulation is not enacted should the ICC be allowed to continue as is?

ANSWER: We believe that it makes little sense to retain an entire surface transportation regulatory agency merely to regulate one mode (railroads). In the hypothetical case that no additional deregulation of surface transportation were to occur, the ICC would still have some responsibilities for the economic regulation of several modes in addition to railroads: trucking, freight forwarders, intercity buses, and domestic water carriers. However, the operating authorities issued to carriers in these modes are very limited in value and amount to little more than "paper shuffling", as we have testified. They offer no protection to either shippers or the respective transportation sectors. We see no valid reason for retaining ICC jurisdiction in these sectors. On the other hand, if these authorities are retained, there is no other agency that would want to implement them, and under such hypothetical circumstances, it might be logical to retain the ICC. However, as a result of the recent budget initiative, we anticipate that the ICC -- like many other agencies -- would operate with a reduced level of resources.

SENATOR ANDREWS: Does the Department believe that the ICC has done a good job of carrying out the captive shipper protection and procompetitive provision of the Staggers Act?

ANSWER: We believe that there is room for improvement in the ICC's implementation of the Staggers Act. While we recognize that there have been many significant improvements in the railroad industry as a result of the Staggers Act and the ICC's actions, there have also been instances of delay or inability to reach a decision. In addition, there has been a great deal of criticism of the ICC for striking a balance between shippers and carriers that is too heavily pro-railroad and provides too little protection to shippers.

Nonetheless, the framers of the Staggers Act recognized that the balancing of shipper needs against the needs of the railroads to earn improved revenues would sometimes entail difficult choices and compromises. They also recognized that this effort would be a continuing process, not a once-and-for-all solution. That process should be given every opportunity to provide solutions, as shippers and railroads continue to work together to find mutually acceptable answers to tough questions. Although we believe that the recent agreements between the National Industrial Transportation League, the Association of American Railroads, and several other shipper groups are the kind of cooperative shipper-carrier efforts the Congress envisioned when it enacted the Staggers Act, we also believe that the ICC must redouble its efforts to provide menaningful protection to shippers in those instances where marketplace forces cannot do so.

SENATOR ANDREWS: How would the Department improve on what the ICC has done...or not done?

ANSWER: We believe that, given its limited resources, the ICC has done a good job of implementing its underlying statutes. However, we think that a decision in Ex Parte No. MC-19 (Sub. No. 36) should have been made long ago. The ICC's decision in this proceeding (concerning revision of the household goods carriers' operational regulations) has yet to be issued more than two years after the comment period closed.

In addition, we would like to see the ICC process the revised motor carrier rate bureau agreements promptly. The Motor Carrier Act of 1980 (MCA) called for review of these agreements; however, many of them have not yet been reviewed, more than five years after the effective date of the MCA.

SENATOR ANDREWS: The Department has supported two current mergers, the Norfolk Southern purchase of Conrail and the Southern Pacific and Santa Fe merger. The Justice Department has found anti-competitive problems with both. Under the sunset of ICC will the Department have any role in railroad mergers and acquisitions or will Justice take over all authority in this area?

ANSWER: Although the Justice Department and the Department of Transportation reached differing policy recommendations in these two merger cases, our assessments of possible harm to competition were relatively similar. The primary difference was that the Justice Department had doubts about the efficacy of the remedies proposed, while the Department of Transportation believed that the proposed solutions would generally mitigate the reductions in competition.

We believe that, whether jurisdiction over mergers and acquisitions ultimately resides in the Justice Department or the Department of Transportation following ICC sunset, a careful analysis of possible harm to competition will be done by both agencies. Either agency would have ample opportunity to file comments in a proceeding held by the other.

SENATOR ANDREWS: In response to a question asked last year, the Department said it was monitoring the Staggers Act. Specifically, joint rate cancellations, railroad-shipper contracts and developments in rates charged for carrying grain, and that these results would be available in 1985. What is the status of the studies in those areas? Are they available? Can you make them available to the Committee now?

ANSWER: The joint rate cancellation study involved speaking to selected railroads and shippers about joint rate cancellations and changes in reciprocal switching agreements to determine their effects on railroads and shippers. The export grain study examined rate differences over time and between regions to various export ports for movement of corn, wheat and soybeans. These two studies are now in the final draft and edit stage and will be made public within the next few months. The contractor for the grain contract study, which is intended to analyze the effect of railroad-shipper contracts on prices being paid to farmers, has encountered problems with availability of data. Consequently, the completion date for this study is uncertain.

SAFETY REVIEW - RAIL

SENATOR ANDREWS: In the October 1985 Report of the Safety Review Task Force on Federal Railroad Administration Safety Programs, it was admitted that Federal Railroad Administration (FRA) has been from 30 to 50 Inspectors short of authorized staffing. In the FY 1986 Appropriations Bill, 379 Federal Enforcement Positions were provided for. Are these positions filled? What is the present personnel complement?

ANSWER: The October 1985 Report of the Safety Review Task Force did not reflect that the FRA had been 30 to 50 Inspectors short during any period specifically within the recent past. What it stated was as follows:

> "In past years, FRA has been from 30 - 50 inspectors short of authorized staffing because of difficulties in attracting and hiring qualified and experienced personnel. However, Administrator Riley has made hiring a priority and the FRA reached an all-time high of 322 on board this year."

The 322 on board is only 3 short of the 325 authorized inspector positions. The remaining 54 authorized clerical positions make up the total 379 Federal Enforcement Positions authorized in the FY 1986 Appropriations Bill.

As of March 2, 1986, the FRA will have a total on-board count of 368 employees assigned to its field operation, including 319 incumbered positions in non-clerical categories. This number is slightly lower than usual as a result of the high number of retirements which were effectuated at the end of the calendar year. However, in order to ensure a full complement of qualified inspectors at all times the FRA has instituted a policy of advertising all potential field vacancies at the earliest possible opportunity. As a result of these expedited recruitment procedures six additional inspectors will be reporting for duty in the near future. Assuming a consistent rate of attrition among Railroad Safety Inspectors, there should continue to be little difficulty maintaining a well-qualified field work force in accordance with the authorized positions.

GRANTS-IN-AID FOR RAILROAD SAFETY

SENATOR ANDREWS: If Congress went along with the Administration's proposal to abolish the State Grant-In-Aid Program, do you see the need to increase the Federal inspector program? If not, why not?

ANSWER: States are committed to the rail safety program with or without Federal funding. Most of the States currently participating would fully fund their State railroad safety program in the absence of matching funds from FRA. Of the 31 States in this grant program, we estimate that 28 States (with 70 of the current 104 inspectors) would continue to participate without the matching funds. Increased costs to each State should not present an insurmountable burden. Rail safety is FRA's top priority and the authorized Federal inspection force (325) is fully qualified to meet the challenge for any potential reduction of State inspectors. Railroad safety will not be compromised in the process, and the effective working relationship established between the States and FRA will continue.

SENATOR ANDREWS: The State program at $2.5 million supports approximately 100 State inspectors for a Federal cost of $25,000 per inspector. The Federal program costs approximately $59,000 per inspector. Don't you believe that supporting the State program leverages greater coverage of Federal standards at reduced costs?

ANSWER: No. The State Participation Program was established in 1970 to provide States with an incentive to participate in FRA's safety enforcement program. Given the maturity achieved by the State programs over the past 16 years and the limited resources available to FRA, we continue to believe that the States are now able to assume full responsibilities for the salaries and related costs of their inspectors. Furthermore, FRA believes that most States (28 out of 31) would continue to participate in the FRA program with 70 of the current 104 inspectors even without Federal funds. It would cost each State $104,000 on average to pick up the Federal share in FY 1986 and $113,000 in FY 1987. This should not present an insurmountable burden for the States. A comparison of State inspector total costs versus Federal total costs is not a good "yardstick" of productivity or cost effectiveness as the activities of the Federal inspectors are broader and more comprehensive. States are chiefly involved in the routine inspections, whereas Federal inspector activity involves a greater extent of carrier contact, accident investigations, and special investigations. Overall, Federal inspectors are a more highly trained and experienced group. The average number of years of railroad experience for the FRA inspection force is 15.

SENATOR ANDREWS: The budget request includes $4.5 million for Grants-In-Aid to States for the Natural Gas and Hazardous Liquid Pipeline Safety Inspection Program and $50 million for the Motor Carrier Safety Grant Program. Why does the Department support these programs with a funding request and not the rail program?

ANSWER: The rail safety grant program has effectively matured over the past 16 years whereby it is more cost effective to have the States fully fund their own inspectors. Furthermore, the rail safety grant program is different from these two other grant programs. FRA's Federal program has a large existing Federal inspector (325) force that is assisted by State inspectors (104) for an essentially interstate transportation mode. The other safety grant programs have a predominance of State inspectors to essentially inspect intrastate transportation activities. The Department has recognized that both the Natural Gas and Hazardous Liquid Pipeline Safety Inspection Program and the Motor Carrier Safety Grant Program need Federal funds to assure that the State inspection programs are expanded and safety improved in these transportation modes. It should also be noted that we are proposing that both the Motor Carrier and Pipeline programs be user-financed in FY 1987.

SENATOR ANDREWS: Philosophically or programmatically what is the difference between these two programs and the rail program? Doesn't it seem more in keeping with Administration policy to increase State grants, gradually reduce Federal efforts and give State's greater responsibility while reducing overall Federal funding?

ANSWER: The Railroad Safety Grants-In-Aid program was established by Section 206 of the Federal Railroad Safety Act of 1970 to provide States with an incentive to participate in the FRA safety enforcement program. A State may be reimbursed for up to 50 percent of its costs to participate in the program if the Congress appropriates funding. In order to establish nationally uniform railroad regulations, the 1970 Federal Railroad Safety Act directed the Federal Government (DOT) to be responsible for the establishment and primary enforcement of railroad safety regulations. To assist in achieving this goal, conflicting State rules were prempted. In lieu of their prior role, States were given the opportunity to participate with the Federal

Government in carrying out the investigative and surveillance activities relating to any safety rules issued under this safety act. The State rail safety inspectors essentially complement the Federal rail safety inspectors. Currently a large existing Federal inspector (325) force is being assisted by State inspectors (104) in essentially an interstate transportation mode. The rail safety grant program has effectively matured over the past 16 years whereby it is more cost effective to have the States fully fund their own inspectors. The two other DOT safety grant programs (Motor Carrier Safety Grant Program and Natural Gas and Hazardous Liquid Pipeline Safety Inspection Program) while similar to the rail safety grant program in providing Federal subsidies to the States are very different in program objectives.

The Motor Carrier Safety Grant Program supports a variety of State-administered motor carrier safety programs to: (1) strengthen the presence of truck and bus safety inspectors and (2) increase the number of safety compliance reviews of intrastate trucking firms by State inspectors. These programs include roadside spot checks of vehicles and drivers, safety audits of trucking firms which operate solely within a State jurisdiction, and enforcement of hazardous materials regulations. This program recognizes that expanding the largely established State inspection program will be cost effective in achieving the desired safety results by reimbursing 80 percent of the States operating costs.

The Natural Gas and Hazardous Liquid Pipeline Safety Inspector Program is very similar to the Motor Carrier Safety Grant Program. It provides Federal assistance to an existing State (intrastate) program. The number of State inspectors far exceeds the Federal inspectors (there are approximately 219 State inspectors compared to 18 Federal inspectors). This program is authorized to provide up to 50 percent matching Federal funds.

In general, State safety grants are being requested by DOT when it is cost effective. DOT is giving States more intrastate safety responsibilites, as appropriate, in the non-rail safety grants to promote a better use of Federal resources and to assure a more efficient use of the existing Federal force.

BUREAU OF MOTOR CARRIER SAFETY (BMCS)

SENATOR ANDREWS: The Department recently announced a major safety initiative to hire an additional 150 BMCS safety specialists, which would double the current number. Why is this increase necessary given the large increase in State Motor Carrier Safety Grants? How would these additional personnel be used? How many would be inspectors, how many supervisors or trainers? Where are these additional safety specialists coming from?

ANSWER: Our proposal to double BMCS's safety specialist workforce is just one part of a larger, cooperative effort with the States and the industry to improve motor carrier safety. We have created a new Associate Administrator for Motor Carriers in FHWA and provided for direct reporting relationships between our motor carrier safety specialists in the field and BMCS. We intend to focus Federal efforts on monitoring of interstate carriers and assistance to problem carriers to improve their performance.

Assuming a full complement of 300 safety specialists, each will be assigned a "caseload" of about 725 carriers to monitor and work with the carriers to assure their compliance with our safety rules. We estimate that about 160 carriers per caseload will have continuing safety problems and will need more guidance and monitoring.

In monitoring a carrier caseload, the safety specialist will: review the Safety Fitness Declarations, accident and other trend data, offer technical assistance, and participate in any enforcement actions.

Our proposal is to double the number of safety specialists in the field; none of the additional 150 people would be involved in administrative functions. They will be outside hires.

SENATOR ANDREWS: How many of the new 150 would come on board in fiscal year 1986?

ANSWER: We plan to hire 90 of these people in 1986, and complete hiring the full 150 in 1987.

SENATOR ANDREWS: Are these inspectors going to concentrate in specific areas like hazardous materials or on particular types of operators or in particular geographic areas?

ANSWER: The inspectors will focus on monitoring of interstate carriers and assistance to problem carriers to improve their performance.

SENATOR ANDREWS: Are roadside inspections going to be increased? Are weight stations inspections going to be increased?

ANSWER: While BMCS's efforts will focus on monitoring carriers and assisting them to improve their safety performance, we will be asking the States to take the lead on roadside inspections. I am proposing a 200% increase in funding for Motor Carrier Safety Grants to aid them in that effort.

SENATOR ANDREWS: The fiscal year 1986 Motor Carrier Grant Program is funded at $17 million. The proposal for fiscal year 1987 is for $50 million, an almost three fold increase. How will these additional funds be used? How much of the $50 million will go for roadside inspection versus recruitment, hiring and training of state enforcement personnel? Are the states capable of efficiently utilizing this sudden increase in funding?

ANSWER: We will be asking the States to take the lead in roadside inspections and audits of intrastate carriers, and our $50 million request for the Motor Carrier Safety Grants programs in FY 1987 is to assist them in that effort.

Specifically, the $50 million would be used to:

- Recruit and train State inspectors. This would require about 25% of the funds. We anticipate that some 4,000 State inspectors will have been trained through the Grant program by the end of FY 1987.
- Increase roadside inspections. This, and audits, will use the remaining 75% of the funds.
- Increase the number of annual safety compliance audits of interstate trucking companies.

We expect that a substantial number of states (about 9) will shift from the development stage to full implementation of the grant program in 1987.

SENATOR ANDREWS: How many roadside inspections are expected to be conducted at this level? How many unsafe drivers and trucks will be removed from service under this $50 million program?

ANSWER: We estimate that there will be 2 million roadside inspections annually at this level of funding. In addition, there will be 10,000 audits of intrastate carriers.

Our historic out-of-service rate for trucks as a result of inspections is in the range of 25 to 30%. If the rate holds, half a million trucks would be taken out of service. For drivers, the rate has been 10%. At that rate, 200,000 drivers would be taken out-of-service at the proposed level.

SENATOR ANDREWS: The fiscal year 1987 budget proposes the funding of BMCS from the Highway Trust Fund. Does this require authorizing language to be enacted?

ANSWER: Yes, the proposal requires authorizing legislation, and our reauthorization bill includes language which would authorize trust fund financing of the Bureau.

SENATOR ANDREWS: Why fund BMCS through the trust fund?

ANSWER: The Bureau's mission is to protect the public from risk inherent in commercial truck and bus transportation by highway. The groups which create the risk and the group to be protected are all highway users. In that circumstance, it appears equitable to finance the Bureau through highway user fees.

SENATOR ANDREWS: Why does the request for this Bureau go from $13.9 million in fiscal year 1986 to $19.5 million in fiscal year 1987, a 40 percent increase? Is it all personnel costs?

ANSWER: $5 million of the increase is for the increase of 150 safety specialists. The $5 million includes personnel pay and benefits, and training costs.

SENATOR ANDREWS: What actions has the Department taken to implement the requirements of the Motor Carrier Safety Act of 1984?

ANSWER: Section 206 of the Act directs the Secretary of Transportation to reissue the Federal Motor Carrier Safety Regulations (FMCSR) within 18 months of enactment. To comply with this provision the FHWA has issued an ANPRM pertaining to most aspects of commercial motor vehicle safety. The purpose of the ANPRM is to: (1) advise the public what areas of the Federal Motor Carrier Safety regulations are being considered for revision, rescission or addition; (2) request comments on those areas under consideration; and (3) incorporate several open dockets covering similar issues into this undertaking.

Section 207 of the Act provides for the submission of all State regulations pertaining to commercial motor vehicle safety to the Secretary and the Commercial Motor Vehicle Safety Regulatory Review Panel established pursuant to section 209 of the Act, within six months of enactment. Compilations of State laws and regulations pertaining to commercial motor vehicle safety have been submitted to the Safety Panel. The FHWA issued a public notice in February 1986 requesting the States to submit by June 30, 1986, their analysis of safety laws and regulations in comparison to the Federal regulations in effect on April 30, 1986. (The Panel was appointed by the Secretary on June 17, 1985, and had meetings in September 1985 and January 1986.)

FHWA issued an ANPRM concerning the development of federal commercial vehicle inspection standards applicable motor carriers engaged in interstate or foreign commerce. This rulemaking is required by Section 210 of the Act.

Section 215 requires the Department of Transportation, in consultation with the Interstate Commerce Commission (ICC), to establish a new safety fitness procedure for owners and operators of commercial vehicles operating in interstate or foreign commerce. The new procedural rules will be issued under the provisions of the Administrative Procedures Act, with opportunity for public comment. The NPRM has been developed and coordinated with the ICC and has been sent to OMB for review.

The study on the effectiveness of individual state regulations in promoting the safe operation of commercial motor vehicles, required pursuant to section 218 of the Act, is currently being conducted by the Department.

The study mandated by section 220 of the Act on significant health and safety hazards to individuals engaged in the operation of commercial motor vehicles, was done by the Department in cooperation with the National Institute for Occupational Safety and Health and the Secretary of Labor. A final draft of the report is now under review.

Section 224 of the Act requires the Secretary to publish regulations requiring motor carriers of passengers from contiguous foreign countries to carry proof of financial responsibility coverage on board each vehicle entering the United States. A final rule on this matter was published in the Federal Register (50 FR 7061) on February 20, 1985. The BMCS has also sent letters to all foreign motor carriers of record advising them of this regulation, which became effective on the date it was published.

Section 228 of the Act amended the definition of "employee" in section 401 of the Surface Transportation Assistance Act of 1982 so that bus drivers will be covered by the employee protection provision of that Act administered by the Department of Labor. This section also required the Secretaries of Transportation and Labor to study and to report to Congress on the need for that change. A draft report on the study is being reviewed by both Departments and a final report will be submitted to Congress.

SENATOR ANDREWS: Do you still propose to transfer the Bureau of Motor Carrier Safety (BMCS) to National Highway Traffic Safety Administration (NHTSA) as was discussed within the Administration last year?

ANSWER: No. We have created a new Associate Administrator for Motor Carriers in FHWA and provided for direct reporting relationships between our motor carrier safety specialists to the field and BMCS headquarters.

SENATOR ANDREWS: Will you be establishing a separate Motor Carrier Administration to carry out the Department's responsibilities in this area?

ANSWER: No. We think the course we are taking is a less costly and more effective way to carry out our responsibilities.

AGE 21 DRINKING LEGISLATION

SENATOR ANDREWS: Legislation was enacted in 1984 (PL 98-363) that requires reductions in Federal-Aid highway apportionments to States that do not have a minimum drinking age of at least 21 years. How many States presently have a 21 year minimum drinking age?

ANSWER: As of February 20, 1986, 38 States now have a minimum drinking age of at least 21 years.

SENATOR ANDREWS: How many States enacted legislation following enactment of the Federal law?

ANSWER: Fifteen States have enacted age 21 as the legal age for purchase/possession of alcoholic beverages.

SENATOR ANDREWS: Which States have not yet enacted such legislation?

ANSWER: The following States have not yet enacted such legislation: Colorado; Hawaii; Idaho; Iowa; Louisiana; Minnesota; Montana; Ohio; South Dakota; West Virginia; Wisconsin; Wyoming and the District of Columbia.

SENATOR ANDREWS: Do you support the efforts presently under consideration to make permanent the penalty provisions of this law?

ANSWER: This Administration in general, opposes the imposition of sanctions to accelerate State action. However, after careful consideration and deliberation, it was determined that in the case of the National Minimum Drinking Age the use of Federal authority was fully justified. Despite our efforts and some 18 months after signing of the Federal legislation, 12 States and the District of Columbia have not raised their legal age to purchase/possess alcoholic beverages to 21. In addition, four

States that have enacted age-21 statutes have included sunset provisions where the drinking age reverts to the original age when Federal withholding of highway funds ends, under existing law on September 30, 1988. Therefore, we believe it is necessary to make permanent the penalty provisions to preclude States from sunsetting their laws when Federal withholding of highway funds ends. We are convinced that it will help persuade State legislators to act in the national interest to save our children's lives by raising the drinking age to 21 across the country. Without permanent penalty provisions, the nation could return to the patchwork quilt whereby neighboring States have different drinking age laws. The "blood border" problem that exists when our youth drive from one State with 21 as the drinking age into another State with a lower age must be eliminated. The proposed change should accelerate this action.

SENATOR ANDREWS: Do you consider it appropriate to withhold highway funds, some of which might be used for projects to enhance highway safety, to encourage States to enact such laws?

ANSWER: The national concern over drunk driving and, in particular, the disproportionate number of young people killed or injured in alcohol-related highway crashes is of major concern to this Administration and is reflected in the overwhelming support the legislation received in both Houses of Congress. Raising the drinking age is a proven success. With the problem so clear-cut and a proven solution at hand, we believe it appropriate to withhold highway funds. Recent research findings on the lifesaving effects of age-21 legislation outweigh any other highway projects that may enhance highway safety for this problem age group. Persons 18-20 are more than twice as likely as the average driver to be in an alcohol-related crash. When age 21 drinking laws are enacted, nighttime fatal crashes decline an average of 13%. In 1984, State minimum drinking age laws of 19, 20, or 21 saved an estimated 700 lives in traffic crashes compared to a minimum drinking age of 18. If all States with a minimum drinking age less than 21 had raised the minimum to 21, an additional 400 lives could have been saved.

SENATOR ANDREWS: What other mechanisms are available that might provide an incentive to States to increase or maintain their minimum drinking age at 21 years?

ANSWER: The Alcohol Traffic Safety Incentive Grant Program (PL 97-364) provides an incentive for States to enact age 21 legislation. Fifteen of the seventeen States that have qualified for these grants have age 21 statutes. Unfortunately, the Alcohol Traffic Safety Incentive Grant Program has not had the high success rate of encouraging States to adopt age 21 as has The National Minimum Drinking Age Act (PL 98-363). The National Minimum Drinking Age Act has been a major factor in 15 States raising the legal age to purchase/possess alcohol beverages to 21, whereas raising the drinking age was a factor in seven of the seventeen States that qualified for the Alcohol Traffic Safety Incentive Grant funds.

DISADVANTAGED BUSINESS ENTERPRISES (DBE)

SENATOR ANDREWS: In your letter transmitting proposed Surface Transportation Reauthorizing legislation to the Congress, you stated that the bill does not contain any revisions to the current program for DBE created by Section 105(f) of the Surface Transportation

Assistance Act (STAA) of 1982, but that the issue is still under consideration. What problems have you encountered with this program?

ANSWER: The following are some concerns we have heard from many in the highway industry since the enactment of the DBE program of Section 105(f):

Concern #1: Non-DBE specialty contractors have complained that the 10 percent DBE requirement is forcing them to lose business or even driving them out of business. In most cases, specialty work is performed through subcontractors and the DBE requirement is primarily met from the subcontracting portion of highway projects, not through prime contracts. However, it is difficult to judge fairly the weight which should be given to individual complaints of adverse impact, some of which may stem from disappointment at losing competition to new entrants into a formerly less open market, and to the overall effort of the STAA, which increased total contract dollars and opportunities by 50 percent for the entire industry.

Concern #2: There have been allegations that the DBE requirement has caused additional costs to the highway program. The allocation of resources at the state level to establish adequate DBE certification and verification processes, as well as the steps taken to provide assistance to DBEs, may have entailed added costs. There have also been complaints that prime contractors have awarded subcontracts to DBEs in order to meet contract goals, even though the DBEs' quotes were higher than non-DBE competitors. This could have the effect of raising bid prices on contracts where DBE goals are included although it is far from certain that this has happened in any systematic way or that unreasonably high prices for work have resulted. There is a problem in quantifying these additional costs since we do not have the data available which would permit us to arrive at exact figures or even accurate estimates.

Concern #3: Non-DBE general contractors have told us of the difficulty they have had locating qualified, legitimate DBEs and of the cost of including them in the projects due to their lack of expertise. We have found that DBEs, like most emerging companies, are in need of technical assistance in areas such as prequalification, estimating, bid preparation, plan reading, planning, business management, accounting and recordkeeping. These companies are also often in need of bonding and financial assistance. In order to assure that there are a sufficient number of qualified DBEs available for highway and transit projects, the Department has committed considerable resources to identifying DBEs and providing them technical, management, bonding and financial assistance. We believe that these resources have assisted both the general contractors in locating qualified DBEs and the DBE subcontractors to successfully obtain and complete transportation-related projects.

Also, the Department of Transportation's DBE assistance resources have assisted the majority of highway and transit agencies to achieve the DBE goals set in fiscal years 1984 and 1985. This fact may provide a rough measure of available DBE capacity in the neighborhood of 13 percent.

SENATOR ANDREWS: In what aspects of the program are changes under consideration within the Department?

ANSWER: No specific changes are being considered, however, we are currently evaluating a comprehensive range of options and intend to work closely with the Members of Congress on this provision during development of the reauthorization legislation should changes be needed.

AMTRAK ELIMINATION

SENATOR ANDREWS: The Fiscal Year 1987 budget does not contain funds for operation of Amtrak. What guarantees can you give the commuter that Amtrak service will be picked up by either State or local agencies or by private concerns?

ANSWER: I can give no guarantees that Amtrak service will be picked up because the answer depends on the cooperation of the States, Amtrak, employees and other interested parties. The Department will work with State and local government officials to discuss a process whereby the role of funding rail passenger service can be assumed by those who benefit from it. Moreover, I have directed John Riley to review with Graham Claytor and reach agreement on the range of potential savings of a series of initiatives that would, if implemented by Amtrak, minimize the costs. If Amtrak's unfunded needs were minimized it would reduce the burden on States to assume the operations. Also, the Department is prepared to assist and help facilitate the process of creating an arrangement or compact among the various parties under which service can be preserved.

SENATOR ANDREWS: How many meetings have been held with State DOTs or others to pick up the service if Amtrak subsidy is eliminated? Who were these meetings with? What were the States' reactions to the Administration's proposal(s)?

ANSWER: The Federal Railroad Administrator, John Riley, held a meeting with representatives of State Departments of Transportation, and commuter authorities in the Northeast Corridor on March 20, of last year to discuss the Administration's proposal to eliminate the Amtrak subsidy starting in FY 1986. At that time, Administrator Riley discussed various cost saving measures and ways of sharing costs with the States and commuter and freight operators in the absence of Federal subsidy. Mr. Riley also had informal discussions with State Secretaries of Transportation about increasing the State share of the cost of Section 403(b) trains, or intrastate service, outside the Northeast Corridor.

The States expressed skepticisim that any kind of takeover of Amtrak operations could or would be in place by October 1, 1985. Frankly, we think the States did not feel they had a serious need to confront the issue. We believe that the time is now at hand when they must confront the issue and we will be resuming our discussions with them.

SENATOR ANDREWS: What passenger rail service would still be available in fiscal year 1987 if Amtrak subsidy were eliminated?

ANSWER: The answer depends on the cooperation of the States, Amtrak, employees and other interested parties. We have developed a list of initiatives to lower Amtrak's deficit that I have directed Mr. Riley to take up with Graham Claytor. The success of that effort and the States' willingness to step forward and shoulder the remainder of the deficit, will determine how much service is operated. The Department will again request the States to meet with us to discuss a process whereby the role of funding rail passenger service can be assumed by those who benefit from it. Additionally, we are considering possible legislation which would facilitate the formation of the interstate agreements or compacts which may be necessary if the States are to work together.

SENATOR ANDREWS: Does the Department support the Amtrak related provisions contained in S. 1730, the Consolidated Omnibus Budget Reconciliation Act of 1985? Has the Department estimated the increased revenues accruing to Amtrak if these provisions were enacted? If so, how much additional revenue would Amtrak realize?

ANSWER: The Department does not support S. 1730. We are especially opposed to the authorization of $1.2 billion for Amtrak for FY 1987 and FY 1988. As I have testified, before you, the country can no longer afford to spend so much for a service that contributes so little nationally.

The Department has reviewed Amtrak's estimates of revenue increases and cost savings and concurs with their figures.

SENATOR ANDREWS: Is there any level of subsidy (other than zero) that the Department could support for Amtrak? If so what is it? Is there any Scenario or set of circumstances under which the Department could support an Amtrak subsidy? If so, please describe.

ANSWER: The Department does not support any subsidy level for Amtrak in FY 1987. Last year, I asked John Riley to work with State officials in laying the ground work for an Amtrak transfer but nobody listened. Changes need to be made immediately by Amtrak to reduce its costs to an affordable level for takeover by the States. I have begun that process. I have directed John Riley to work with Graham Claytor this year to reach an agreement on the range of potential savings from several deficit reduction measures. The Department will again request the States to meet with us to discuss a process whereby the role of funding rail passenger service can be assumed by those who benefit from the service. We are also considering legislation which would facilitate the formation of the interstate agreements or compacts which may be necessary if the States are to work together. Effective implementation of those initiatives can reduce Amtrak's unfunded costs to a point where the burden on States to assume Amtrak's operations is as low as possible.

SENATOR ANDREWS: The budget submission calls for rescinding approximately $12 million of the Fiscal Year 1986 funds provided for the Northeast Corridor Improvement Program. Why? Is this rescission request predicated on elimination of Amtrak subsidies?

ANSWER: The Administration has consistently maintained that funds for additional improvements in the Northeast Corridor beyond the $2.19 billion budget for the Northeast Corridor Improvement Project, should be treated just like any other capital expenditures by Amtrak—as part of Amtrak's overall budget.

The Department transferred responsibility to Amtrak at the end of 1985 for work on the Corridor which Amtrak is doing as the prime contractor. Amtrak should not be funded through another appropriation as stated above. There are sufficient unexpended balances in this account to complete the work on the Corridor the Department was responsible for prior to FY 1986.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA)

SENATOR ANDREWS: Madam Secretary, funds provided for WMATA for fiscal years 1985 and 1986 are still held up, why?

ANSWER: WMATA and the Urban Mass Transportation Administration (UMTA) are in the process of developing a full funding agreement which would define the terms and conditions and scope of work to be undertaken with funds appropriated under the Stark-Harris Act.

SENATOR ANDREWS: There was to be a meeting between your transit officials and WMATA representatives to resolve the impasse. Could you tell us what progress was made to move these funds?

ANSWER: As you know, UMTA Administrator Ralph Stanley wrote to the chairman of the WMATA board on February 5, 1986 to outline the principles governing release of FY 85 and 86 funds. I'd like to insert a copy of that letter for the record. Officials from UMTA have met with WMATA to discuss the release of these funds. A conceptual agreement governed essentially by Mr. Stanley's letter has been reached. Additional meetings will take place to address the particulars of grant release. In the interim, WMATA has requested, and UMTA has agreed, to provide funds for the construction of the Shaw station on the inner Green line from FY 85 appropriations. As other critical construction elements approach, UMTA will consider releasing additional funds on an as needed basis, consistent with the principles outlined in Mr. Stanley's letter.

(The letter follows:)

LETTER FROM RALPH STANLEY, ADMINISTRATOR, URBAN MASS TRANSPORTATION ADMINISTRATION

Mr. Cleatus E. Barnett
Chairman
Board of Directors
Washington Metropolitan Area
Transportation Authority
600 Fifth Street, N.W.
Washington D.C. 20001

FEB 5 1986

Dear Mr. Barnett:

Secretary Dole has asked me to respond to letters addressed to the Department by you and other WMATA officials concerning the zero funding level recommended in the President's Fiscal Year 1987 budget request for Metrorail construction. In doing so, I will expand on three fundamental issues I discussed at the December 19 Airlie Conference as well as one crucial issue raised in your January 9 letter to President Reagan.

These fundamental issues are: 1) the need for WMATA rail construction to be in segments that are connected to one another; 2) the need for a dedicated local funding source to pay additional construction costs and the ultimate operating deficits for both the rail and bus systems; 3) the truth about actual financing for the longstanding "Federal, State, and local commitment to build" the Metrorail System; and 4) the current delays in construction of the inner Green Line, which was the principle concern expressed in your letter to the President. None of these issues are new to you or the WMATA Board. Indeed, most of them have been repeatedly raised with your Board for more than a decade by the last five Secretaries of Transportation, the last five UMTA Administrators, two of whom also served as General Managers at WMATA, and the last five Congresses. I will address them in detail below.

Operable Segments

I stressed at the December 19 meeting that no UMTA Administrator can approve grants for elements of a construction project which do not stand alone as useable facilities unless there are other funds available to bring them on line. Allow me to put that in simpler terms; you cannot begin something which you do not have the money to finish. This is the problem I have when considering WMATA's current proposed rail construction program, and judging from the reaction of WMATA officials and the Washington press in understanding this principle, perhaps this should be made more clear.

First, this requirement has been set forth by the Department and recognized by WMATA officials for a number of years. In 1976, UMTA Administrator Patricelli told Congress that "we only permit their building a segment at a time." In 1978, former Secretary Adams stated that "the segments to be built should be useable and contiguous and should emphasize the highest areas of ridership." Before the House Appropriations Committee in 1979, former General Manager Lutz, in response to a question by Congressman Duncan, indicated that it was WMATA's "basic view...to try and get operable segments constructed."

When we commenced negotiations for a full funding contract for an 89-mile system to utilize the remaining Stark-Harris authorization, I withheld approval of the Fiscal Year 1985 grant program in the thought that it would be folded into the full funding contract. I sincerely believed this would be achieved in calendar year 1985, but it was not. The 1985 program alone does not sufficiently advance work on construction elements approved in earlier grants so as to make them operable. This deficiency would have been rectified in the framework of a full funding contract utilizing all of the remaining Stark-Harris authorization. The Gramm-Rudman-Hollings Act was then enacted and affected Fiscal Year 1987 funding deliberations. Your Board reacted by suggesting no further possibility of full funding contract negotiations. However, the full funding contract format will still be used and remains the standard UMTA management approach for major construction projects regardless of how much money is appropriated. The scope of the intended work must reflect the realities of the current funds available.

WMATA must identify those segments of the proposed system which can be completed with currently available resources. It appears to me that WMATA has two choices. First, it can utilize Federal funds for completion of those elements in your current schedule, provided it assures UMTA that funding beyond that appropriated by Congress and required to complete the segments you begin will be provided solely from non-Federal sources. This is the practice of other cities which do have dedicated local funding. Second, if WMATA cannot or chooses not to provide UMTA with such assurances, it can amend the construction schedule and utilize Federal funds for construction activities only on those segments which can be brought into revenue service with currently available funds. Either of these approaches will ensure that available Federal funds will produce useable facilities.

At this point in time, however, there is no apparent source of working capital to proceed under the first approach nor does it appear that the WMATA jurisdictions are anxious to guarantee the substantially increased local share liability implicit in this approach. And if the second option is not followed, I have no choice but to limit grant approvals to those selected elements of your program which can result in useable facilities, and hold off on those which patently cannot.

There have been several instances in the past of your Board authorizing the construction of facilities which have stood idle, for years in some cases, while other pressing mass transportation problems have gone unaddressed. Though in some cases unforeseen difficulties were the cause of this problem, we cannot let it happen in the future.

Specifically, WMATA invested $20.6 million in a station at Grosvenor only to let it sit idle for six years until the Red Line opened in August of 1984. Similarly, the station at Waterfront, a $16.1 million investment, has been completed for eight years, yet has gone unused because resources necessary to complete the Green Line have been diverted to begin construction on other parts of the system. In fact, should the line to Anacostia be completed in 1990, as presently scheduled, the Waterfront station will be twelve years old! These are cases where resources could have been utilized to complete the line but were used instead to begin construction on other parts of the system.

Now, unfortunately, it appears that WMATA is on the verge of continuing this illogical practice. If WMATA were to proceed with its current construction schedule, then only the Red Line from Silver Spring to Wheaton would be brought into revenue service with available resources. Left partially built, inoperable, and without funds to complete would be the Green Line to U Street, the Green Line to Anacostia, the Green Line from Fort Totten to Greenbelt, and the Yellow Line to Van Dorn Street. These incomplete routes would result in a total unfunded liability of

$928 million. The ICCA-IV plan for constructing the system encourages, in fact mandates, use of scarce capital resources in this manner. While I recognize that Congress may not adopt the President's budget as proposed, I will not permit construction to proceed on the assumption that the President's budget will be rejected.

Dedicated Local Funding

The Federal and congressional request to the Board for dedicated local funding is an issue which is certainly not new, in fact it has been successfully avoided by you and other members of the WMATA Board for at least ten years. The record is full of references of concern by the Congress and the Executive Branch and with a recognition of the need to act by a series of WMATA General Managers, all followed by a record of inaction and avoidance by the WMATA Board.

In response to the congressional concern about local sources of funding as expressed by Congressman Conte in March 1977, WMATA General Manager Lutz testified that: "The Authority is investigating new sources of funding which will supplement fare box revenue...(t)he Authority is convinced that ultimately an earmarked or dedicated tax(es) is essential to supplement the financial program of the Authority."

UMTA Administrator Page, in January 1978, posed the key question which remains unanswered today: "We are asking, I hope, what a good businessman asks. It seems that if you want our money and our help in getting more money, then I suggest you tell us what you want to build, why and where the money is coming from."

In August 1978, Secretary Adams made an impassioned plea to WMATA, "...don't keep giving us numbers that keep going up and up and just say in some fashion they're going to be paid. Get down and have yourself a financial plan and a construction plan...we're announcing to them, get at it right now."

Secretary Adams reiterated his concerns at the 15th Airlie Conference in 1978 when he said: "This brings me back to the message I have delivered to this assembly before, and no doubt will deliver again, because I believe it is absolutely essential to the future of Metro. We must have a dedicated local funding source to support public transit construction, maintenance and operation. I believe such action on your part is imperative. It is the next important step. (emphasis supplied) It is inevitable if WMATA is to succeed and Metro is to continue."

During the House Appropriations hearings in March 1979, Congress reiterated its concern about the lack of action to implement a local source of funding and a financial plan. This time Congressman Duncan voiced the frustration and WMATA General Manager Lutz responded that "at this point in our history, some source of dedicated tax, at least within the major jurisdictions, is a very important goal for the fiscal health of the program and good management."

Later the same month, upon assuming the WMATA General Manager position, Richard Page told The Washington Post: "What Metro needs--and everybody knows it--is a firm source of dedicated (tax) revenue (to pay for the operating deficit). Passing the hat among local governments has worked, but it has made life extremely difficult."

Three years later, The Washington Post very accurately reported: "They (WMATA Board members) are forced to spend most of their time figuring out how to shift some of their share of the expense of subsidizing Metro to somebody else...(t)hus, the hard questions, the core questions, go unanswered year after year as Metro leadership bogs down again in an endless review of line items."

Most recently, in the Congressional Appropriations hearings in 1984 and 1985, Congressman William Lehman and Senator Lawton Chiles persistently pressed WMATA General Manager Turner regarding the need for a regional tax for transit. WMATA's position after more than ten years of prodding and public hand-wringing was to assign to a Board Committee the responsibility to explore the issue of a regional tax. After promising in March of 1984 to give its official position by July 1, 1984, Mrs. Turner responded in March 1985 that after one year "(c)onsiderable data has been developed and many meetings have been held, but as of this date (March 1985), the Board has taken no official position on the issue." (emphasis supplied)

If the Board cannot even take an official position after ten years, when will a local funding source be established? The Congress and the Executive Branch have demonstrated both good will and financial support for Metro, while the WMATA Board has blithely ignored the widely recognized need for dedicated local funding. I only wish the WMATA Board had shown the regional unity and commitment to secure local dedicated funds as it has demonstrated in obtaining Federal funds.

Federal Commitment

There has also been much public discussion about the "Federal commitment" of five Presidents and eleven Congresses to the completion of the 100-mile system.* While it is true there were public endorsements of completion, such statements are simply not the currency necessary to build a station. Moreover, when the system was endorsed by President Nixon in 1970, the estimated cost of the 100 miles was $2.9 billion. By the time of President Ford's endorsement in 1975, the total cost estimate escalated to $4.6 billion. When President Carter endorsed and provided funds to the system in 1979, the estimated cost to complete had risen to $7.5 billion. Today, the estimate to complete the new 103 mile system is about $12 billion.

The untold story of the "Federal commitment" can be found in the remarks of numerous Administration officials who are said to have committed to the full 100-mile system. In 1975, Secretary Coleman said "my recommendations ...will be based on my belief that all possible sources of funding in the region should be exhausted before the Federal taxpayer is asked to make further contributions to Metro." UMTA Administrator Patricelli, in 1976, stated the commitment as follows: "The Federal Government, reviewing all the other demands being made upon it, has set a ceiling of $4.67 billion on system costs in which it will participate." Finally, in 1979, President Carter predicated his public endorsement on the assurance of your Board that funds made available under Stark-Harris were all that would be needed to complete the system: "The Federal Government has now placed its total monetary commitment to Metro on the table."

Nevertheless, only five months after securing both the commitment and funds from the President, The Washington Post accurately reported that the cost to complete the system had jumped again--this time by $2.5 billion. When will these cost escalations stop?

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* A system you unilaterally extended on December 13, 1984, to 103 miles, at an additional cost of $132 million, without congressional or Departmental approval.

Have Presidents Nixon, Ford, and Carter reiterated their "commitment" to pay for the system at any cost? In view of this history, I will not publicly support, nor will I recommend that the President support, the completion of a system whose costs so clearly exceed the funds available.

As a long-time resident of this area, I am fully aware of the competing local political interests involved in reaching a consensus. Numerous officials have repeatedly told me that the local political fabric is so strained that issues such as building one segment at a time and long-term funding cannot be resolved. I believe that such an assumption in itself weakens political support.

Finally, I believe in this region, and have faith that the unity you have achieved on so many other issues can be used to secure a dedicated funding source. As Secretary Brock Adams said when he made the same request to you in 1978: "Because whether it's President Carter or myself, we're talking about 1983, '84, '85, in that area, but I am determined that I will not leave a mess for the Secretary of Transportation in 1985 and 1986."

The Completion of the Inner Green Line

Your Board wrote President Reagan a letter on January 9, 1986, and stated that "this proposed withdrawal of funding could not come at a worse time, because of its impact on the Green Line. After many years of difficult planning choices and legal challenges, all the decisions are finally made. At long last, we are ready to go ahead with this rail line, which will serve the heaviest concentration of riders in the regions. Many of these citizens are some of the most economically disadvantaged and transit dependent people in the area. It is essential, as a matter of equity, that this line go forward." I heartily applaud the Board's commitment to the President, which recognizes that the inner Green Line is the most cost-effective portion of the system and serves the most transit dependent citizens in the region. I could not agree more, and am pleased that you are ready to proceed.

Our review of WMATA's own cost figures and construction schedule, indicates that the Authority can, if it chooses, complete the inner Green Line from U Street to Anacostia with less than the total amount of Federal funds already appropriated by Congress and thus currently available.

To be more specific, $541 million (FY '85 and '86 Federal appropriations and local match) is currently available for WMATA construction activities. These are funds which have not yet been put under contract for any part of the system. Based upon WMATA's own figures, an additional $285.1 million is required to bring the inner Green Line into operation.

Thus, your Board alone has the authority, consistent with your own observations to the President regarding commitments to cost-effectiveness, the transit dependent, and fairness and equity, to build the inner Green Line. Then, the needs of the most transit dependent citizens of this area could be met quickly and within the bounds of Federal requirements.

Therefore, if Metrorail service to highly transit dependent areas is truly a priority of the WMATA Board, as your letter to President Reagan indicates, there is absolutely no question that the Green Line from U Street to Anacostia can be completed within already available budget authority for Fiscal Years 85 and 86.

Summary

UMTA's primary goal with respect to WMATA and every other transit authority is to be certain that Federal funds are utilized to construct useable mass transportation facilities. Is UMTA "breaking faith" with the region by requiring that Federal funds not be used for transportation facilities which sit idle for years while other legitimate needs go unmet? Is it unreasonable to ask this region to use available Federal dollars for those parts of the system which can be completed rather than for those parts which cannot? Is it too great a sacrifice for this region to delay construction activities on certain segments until the money is available to complete them?

UMTA also joins Congress in repeating our decade old request for the Board's plan to finance the system, and urges you to understand the true nature of "federal commitment." To do otherwise creates unrealizable local expectations and places an undue burden on your congressional delegation whose past efforts to obtain funding have been remarkable. Finally, I urge you to recognize that the construction of the inner Green line can be achieved now by the Board, and the Board alone.

Each of these is a sound requirement dictated by prudent management of diminishing Federal resources. Even though the final outcome of WMATA construction funding for Fiscal Year 1987 will not be settled for several months as the congressional debate proceeds, we should be able to reach agreement on the expeditious commitment of available funds. Should further budget authority eventually be provided, an amended contract scope could be drawn and a construction schedule geared to bringing into service incrementally useable facilities.

I have been asked by Secretary Dole and O.M.B. Director Miller to discuss these important matters with you at any mutually agreeable time. In our common interests to facilitate the obligation of Fiscal Year 1985 and 1986 grant funds, I sincerely look forward to our meeting on February 18.

Sincerely,

Ralph Stanley

Ralph L. Stanley

SENATOR ANDREWS: Given that the Washington METRO System has its own line item authorization for capital funding (Stark-Harris) why are you proposing the termination of appropriations before the Stark-Harris funds are exhausted?

ANSWER: Difficult decisions have been made in preparing the fiscal year 1987 budget request to meet the requirements of the Gramm-Rudman-Hollings deficit reduction act. In dealing with scarce budgetary resources, funding the Washington METRO System did not have a high enough priority compared to the other funding needs of the department. Further, it would be inequitable for the Federal Government to continue this assistance when similar funding under discretionary grants is being discontinued.

SENATOR ANDREWS: Do you believe that the Washington Metro deserves special consideration because it serves the nation's capitol?

ANSWER: I do not believe that the transit needs of the Washington metropolitan area should receive special consideration over the needs of other communities simply because it is the nation's capitol.

SENATOR ANDREWS: If resolution is reached on the fiscal year 1985 and 1986 funds, could you foresee supporting further funding for Washington Metro?

ANSWER: No, we do not propose any Federal funding for Washington METRO beyond 1986.

TRANSIT

SENATOR ANDREWS: Madam Secretary, the budget proposes rescinding new start construction funds that were provided in fiscal year 1984, 1985, and 1986. The fiscal year 1984 and 1985 funds were the subject of a deferral last year which was subsequently disapproved in the continuing appropriations bill for fiscal year 1986. Congress has obviously not gone along with previous Administration requests regarding this money - why do you persist in batting this back and forth:

ANSWER: The Administration has determined that the balance of $223.6 million of 1984 and 1985 funds should not be obligated since these funds would not provide sufficient resources to complete the desired "new start" projects in these five cities. More specifically, the $223.6 million would only provide about five percent of the estimated $4 billion needed in Federal funds to construct fully the desired "new start" projects in these cities.

Given the need to reduce Federal expenditures now and in the coming years, especially in light of the Balanced Budget and Emergency Deficit Control Act of 1985, the Federal Government cannot promise that this $4 billion shortfall in Federal funding will be provided. This Administration opposes funding new fixed investments under the Discretionary Grants program. Investment in "new start" projects can result in the development of many inefficient, expensive transit systems that will cost more to operate than other transit alternatives.

SENATOR ANDREWS: Has any of the Fiscal Year 1986 funding for the transit capital program been obligated? How much? In what programs?

ANSWER: As of the December 31, 1985, the end of the first quarter of FY 1986, UMTA had obligated the following amounts for capital projects:

Program	Amount Obligated
Section 3	
-Bus	$19,972,733
-Rail Modernization	219,589,851
Section 9	
-Capital	29,960,080
Section 9A	
-Capital	186,608
Section 18	
-Capital	2,368,000
Total	$272,077,272

SENATOR ANDREWS: Why did the Administration feel it necessary to hold back half of the 1986 apportionment of FY 1986 formula funds when the Gramm-Rudman-Hollings provisions suggested only 4.3 percent?

ANSWER: All but two Transportation Department appropriations traditionally apportioned on an annual (i.e., lump sum) basis were apportioned in both the first and third quarters to preserve maximum flexibility in deciding the specifics of Gramm-Rudman-Hollings reductions for FY 1986. The Administration wanted to avoid the situation where grants were made and then recalled. The 50 percent level was chosen so that, in the event across-the-board cuts were not imposed, sufficient funds would be available to implement the Administration's goals and priorities. Now that we know how Gramm-Rudman-Hollings will probably operate, we have released all formula grant funds, except the 4.3% of 1986 funds sequestered.

SENATOR ANDREWS: What is the expected amount of revenue that will accrue to the transit trust fund in fiscal year 1987? How much by the fuel excise tax and how much through interest earned on the trust fund balance?

ANSWER: It is now estimated that the tax revenues from the one cent tax on motor fuel, which is dedicated to transit, will generate about $1.22 billion in FY 1987. Our FY 1987 Budget proposes an obligation limitation of $1.22 billion, which is consistent with these motor fuel revenues. Any expenditures in excess of the user fees collected would add to the Federal deficit.

The following table shows that projected interest earned on the assets in the Mass Transit Account should be about $313 million in FY 1987.

Mass Transit Account Revenue
(in millions of dollars)

	FY 1985 (Actual)	FY 1986 (Est.)	FY 1987 (Est.)
Motor Fuel Taxes	$1,214	$1,078	$1,216
Interest	206	275	313
Total Revenue	$1,420	$1,353	$1,529

SENATOR ANDREWS: Why doesn't the Department propose using all the revenue accruing to the trust fund instead of excluding interest receipts?

ANSWER: Revenue to the trust fund is of two types: (1) motor fuel (excise) tax receipts (user fees) and (2) interest earnings on the assets of the fund.

In accordance with the law, when Treasury borrows from the cash balance of the Mass Transit Account, it is required to pay interest. This interest is expected to generate an additional $275 million in FY 1986 $313 million in FY 1987. Thus, this interest revenue is the basis upon which many suggest the Mass Transit Account can support a higher level.

In FY 1987, program levels for both FHWA's Highway Trust Fund and UMTA's Mass Transit Account are being managed so that only the user fees are returned to the users.

The interest revenue deposited into the trust fund essentially represents transfers from the general funds of the Treasury to the Trust Fund. Its use would add to the deficit. Including interest revenue would continue the subsidization of transit from general revenues and would lessen the Department's ability to meet our Gramm-Rudman outlay targets.

SENATOR ANDREWS: Under the Administration's proposal, North Dakota's total formula funds are reduced by half, to approximately $917,000 primarily because of the overall reduced funding level (from $2.1 billion to $1.2 billion). Yet, North Dakota contributes approximately $4.5 million to the trust fund. Would you support a minimum allocation amendment in the transit area like you do in the highway area? Why not?

ANSWER: The Administration does not feel that a minimum allocation amendment is needed specifically for the Mass Transit Account of the Highway Trust Fund. The existing legislative formula allocates transit funds equitably. Specifically for North Dakota, the State does contribute more for transit than it receives by formula. However, for highways North Dakota will pay an estimated $53.2 million in FY 1987 into the Trust Fund but will receive an estimated $72.3 million in apportioned funds. Moreover, under the Transportation Block Grant, Trust

Funds would be available for both highway and transit projects. This greater flexiblity, coupled with the minimum allocation for the highway portion of the block grant, should make the proposed allocation more equitable.

SENATOR ANDREWS: The FY 1986 bill directed you to enter into negotiations on full-funding contracts with three transit authorities — Los Angeles, Miami and Seattle. What is the status of those negotiations? Are they proceeding, even though you are proposing the rescission of those funds?

ANSWER: UMTA is proceeding with negotiations for all three full-funding contracts. Officials from UMTA have met on several occasions with representatives of all three transit authorities. In each instance, the transit authority has submitted a draft contract for review. UMTA is reviewing the drafts and is continuing communication on all three contracts.

SENATOR ANDREWS: By law, negotiations are to be concluded by March 19th (90 days after enactment). Will you be able to meet that deadline? If not, why not?

ANSWER: Yes, UMTA fully expects to meet that deadline.

SENATOR ANDREWS: Have the negotiations been proceeding in good faith?

ANSWER: Yes, they have.

SENATOR ANDREWS: If the deadline is not met, report language directs that the Department and the affected parties immediately report back to the Appropriations Committee. Will you do that?

ANSWER: In the unlikely event that the deadline for completion of negotiations is not met, the Department will notify the Appropriations Committee.

SENATOR ANDREWS: In the Federal Register of January 24, 1986, the Department published its "Guidance on Documentation of Private Enterprise Participation in Urban Mass Transportation Programs." That notice provides interim guidance for documentation of private sector participation. Given the stated Administration policy to leave transit decisions in the hands of local authorities, why is the Urban Mass Transportation Administration (UMTA) requiring this documentation?

ANSWER: UMTA is not imposing a particular level of private sector participation at the local level. That decision, indeed, is best made by local officials. Rather, UMTA is seeking greater consideration of private sector alternatives to stimulate a more competitive environment in transit. Funding available under the UMT Act is intended for both public and privately operated services. However, private operators can only participate through public agencies which are designated to receive Federal funding. Congress recognized the danger that private transit operators could be shut out of the transit market by Federal assistance being limited to public entities. The UMT Act, therefore, requires the Secretary of Transportation to find, as a condition of Federal assistance, that the private sector has a fair opportunity to participate in federally assisted transit programs "to the maximum extent feasible."

SENATOR ANDREWS: Has the Department estimated the time impact that such documentation imposes? If not, why not? If so, what does the Department believe is sufficient documentation?

ANSWER: The time impact of the documentation guidelines is intended and expected to be minimal.

With respect to the program reviews, the documentation clarifies what should have already been underway.

With respect to pending or proposed grants, a brief narrative description of local procedures, actions taken and future intentions is all that is necessary. We are not requesting detailed study or analysis and therefore, the documentation should not take a great deal of time to put together.

SENATOR ANDREWS: Is the Department intending to propose quotas or percentages that by regulation require a certain level of privatization?

ANSWER: No, the Department does not intend to require quotas or percentages for private sector participation.

The Department has proposed legislation which would require that a small portion of transit service be made available for competitive bidding. The main thrust of this provision is to infuse a reasonable amount of competition into a system that is anti-competitive and inefficient.

Over the past 20 years, the Federal investment and attendant Federal requirements in transit have helped create regional public transit monopolies. Between 1970 and 1982, transit industry operating costs have increased from nearly $2 billion to almost $10 billion, an increase exceeding 400 percent, or twice the rate of inflation. Operating revenues increased at half that rate. Clearly, there is a need to better control transit costs, and requiring competitive services is an excellent method of accomplishing this.

It is important to keep in mind that our proposal does not preclude public operation of transit services. It merely requires that a small amount of each system's service be opened to competitive bidding, with the decision as to who performs the service left to local discretion. We believe that this modest encouragement will result in the provision of transit services much more closely attuned to the mobility needs of Americans than is now the case.

In conclusion, I would emphasize that this is a legislative, not regulatory, proposal.

SENATOR ANDREWS: Does the Department foresee their review of this documentation resulting in the withholding of formula funds or discretionary funds?

ANSWER: As you are aware, this guidance, is based on requests by the transit industry, on what is needed to comply with Sections 3(e), 8(e) and 9(f) of the Urban Mass Transportation Act. The Department does not intend to withhold grants based solely on a grantee's level of private sector activity. As stated in the January 24, 1986, Federal Notice, if a grantee believes that a particular Section 9 project is critical, UMTA will consider a request by the grantee to submit, in lieu of the information requested in the Notice for that project, a statement of intent to comply with the Notice on all other projects and with its remaining formula funds.

OPERATING SUBSIDIES

SENATOR ANDREWS: On what grounds did the FY 1986 sequester order alter the statutory amount available for transit operating subsidies? Will rural areas be held harmless?

ANSWER: The President's February 1, 1986 sequestration order specifically directed that "for accounts making payments otherwise required by substantive law," such as the operating assistance amounts directed by the Surface Transportation Act of 1982, the 4.3% sequestration would apply. The President made this direction based on the statutory authority vested in him as President, as well as Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

In the case of transit, it should be noted that the outlay savings assumed by both CBO and OMB were based on a blended spendout for both capital grants and operating assistance.

Rural areas, under the Section 18 apportionment, are also subject to the 4.3% sequestration.

COAST GUARD SUPPLEMENTAL

SENATOR ANDREWS: What is the likelihood of the need for a supplemental for Coast Guard operating expenses? How much will be requested and when?

ANSWER: There is good likelihood that it will be necessary to go for a supplemental request for Coast Guard's Operating Expenses appropriation. Early in FY 1986, the Commandant initiated a number of management actions to cut back on non-critical expenditures, and, as a result Coast Guard has achieved a high level of savings to date. However, a number of these actions cannot be sustained without, at length, adversely affecting critical functions. So we are looking at the situation closely to determine just how much needs to be requested. We would expect to reach that decision within two to three weeks and present our recommendations at that time to the Office of Management and Budget. Any supplemental request will be nonmonetary, involving transfers between accounts -- not necessarily within Coast Guard itself -- and requiring no new budget authority.

SENATOR ANDREWS: To what extent is the Coast Guard utilizing the Authorization Act 5% transfer authority? Will the Department abide by the Commandant's pledge to report the use of this non-appropriations authority to this Committee? Isn't the use of this authority in lieu of a supplemental a subtle way around the "outlay neutral" restrictions of Gramm-Rudman-Hollings?

ANSWER: Coast Guard has not, to date, utilized this authority. The authorizing legislation requires that the Secretary provide written notification to Coast Guard's authorization Committees of the determination to utilize the transfer authority. You can rest assured that the Secretary would simultaneously notify the appropriations committees of any such determination. The authority was provided by Congress in Public Law 98-557, which was enacted on October 30, 1984, more than a year before passage of the Gramm-Rudman-Hollings legislation.

COAST GUARD CONTRACTING OUT

SENATOR ANDREWS: The FY 1985 goal for savings resulting from contracting-out certain Coast Guard support activities was $2.9 million. The FY 1986 assumption was $3.8 million. Were these levels attained? What does this year's budget assume?

ANSWER: Savings realized in FY 1985 from completion of OMB Circular A-76 reviews were $154 thousand.

Recurring average annual savings for FY 1986 reviews completed as of February 25, 1986, are estimated at $9.2 million. While not all of this amount will apply to FY 1986, we are making excellent progress and expect to attain the anticipatory dollar savings for this year.

The FY 1987 budget assumes continued productivity improvements from A-76. The estimated personnel and dollar savings...231 positions and $1.386 million respectively...reflect our best estimates of the results of A-76 reviews.

SENATOR ANDREWS: Outline the areas which have been contracted-out successfully, and those likely to be this year and next.

ANSWER: Activities successfully contracted-out to date include buoy maintenance, electronics maintenance, food service, data entry and computer operations, security, and family housing maintenance. The focus of our FY 1986 and 1987 programs will be in facilities maintenance, industrial operations, LORAN and OMEGA operations and maintenance, and warehousing.

COAST GUARD DRUG SUPPLEMENTAL

SENATOR ANDREWS: The FY 1985 Supplemental funded the Administrations drug interdiction initiative. Among the several federal agencies, the Coast Guard component included $27.7 million for Acquisition, Construction and Improvements and necessary operating expense support. Provide a status report on all program obligations associated with this supplemental.

ANSWER: Of the $27.7 million provided to the Coast Guard, $17.2M has been obligated on one HC-130H aircraft, which is scheduled for delivery in December 1986. The unobligated balance of $10.5 million should be obligated this fiscal year: $1.2 million for five fast boats in the third quarter and $9.3 million towards the purchase of one Aerostat facility in the fourth quarter.

Under Operating Expenses, $15 million was provided to fund certain FY 1986 requirements, including the continued operation of certain Great Lakes stations proposed for consolidation, and the restoration of the proposed civilian pay reduction. These funds are being used for the intended purposes.

STATUS REPORT ON DRUG INTERDICTION

SENATOR ANDREWS: Provide a status report on drug interdiction.

ANSWER: The Coast Guard is continuing its fight against maritime narcotics trafficking and there are several indications that we are having an effect upon smuggling operations. There has been a decided increase in airdrop activity, the use of hidden compartments (compartments incorporated into the design of a ship for the express purpose of hiding contraband) and attempts by smugglers to circumnavigate our interdiction resources through counterintelligence and the use of their own surveillance aircraft. These operations make smuggling more difficult and expensive for the trafficker.

Also, this past year has seen a dramatic increase in foreign cooperation. Operation WAGONWHEEL, a successful major multi-agency, international drug operation conducted in the Caribbean in November and December, 1984, was part of a much larger operation, HAT TRICK, planned by the National Narcotics Border Interdiction System (NNBIS). Since then, joint operations between the Coast Guard and several other countries have been executed; Operations BLUE LIGHTNING and THUNDERSTORM with the Bahamas, and Operation HUNTER, the Coast Guard part of Operation HAT TRICK II. In addition to the numerous seizures produced during these operations, the deterrence value of these operations has been immeasurable.

Coast Guard estimates of the percentages of seaborne marijuana seized for calendar years 1982 through 1984 are 21%, 14% and 16%, respectively. The estimate for 1985 cannot be calculated yet because estimates of the amounts of marijuana available for shipment from the source countries are not yet known.

The decrease in 1983 seizures is due to a possible combination of several factors, including; the use of hidden compartments which required increased effort to detect, airdrops to contact boats which bypassed the Coast Guard's "Choke Point" strategy, and the smuggler's use of reconnaissance aircraft to avoid the law enforcement cutters. Coast Guard seizures improved again in 1984 due to improved vessel inspection procedures, increased resources, increased operational and tactical intelligence activities, and the successful WAGONWHEEL operation. Although it is too early to predict the percentage of the maritime contraband seized in 1985, Coast Guard seizures declined. It is felt this is a result of the continued effect of Operation WAGONWHEEL and the several other successful joint operations throughout 1985. Intelligence confirms that Operation WAGONWHEEL, and the similar operation that began on November 1, 1985, Operation HUNTER, denied the maritime trafficker his usual routes from Colombia toward the United States. As a result, in-country Colombian narcotics police were able to locate and destroy large amounts of narcotics stored in the loading areas ashore. Operations BLUE LIGHTNING and THUNDERSTORM had the same effect in the Bahamas. It is hoped that this increased foreign cooperation will continue, allowing additional, similar operations in the future.

It is also interesting to note that while marijuana seizures have fluctuated, Coast Guard cocaine seizures have increased dramatically from 136 pounds in 1981 to 7,247 pounds seized in 1985.

USER FEES

SENATOR ANDREWS: The budget once again proposes expanded Coast Guard user fees. Please outline this legislative proposal, and the prospects for enactment given past Congressional resistance.

ANSWER: The proposed legislation vests general authority in the Secretary of the department in which the Coast Guard is operating to establish a system of user fees to recover the costs of certain operating expenses. User fees would be collected only from those who receive special benefits from Coast Guard services. No fees would be collected to recover the costs of services when the benefits are distributed widely among the general public.

Regulations, including fee schedules, would be established through the normal regulatory process. The Secretary would consult with other affected Federal agencies and there would be an opportunity for the public to comment. The fees are not to conflict with international obligations. Fees could be collected through the employment of any Federal, State or local agency, or private enterprise. Receipts collected would be deposited as proprietary receipts ascribed to the Coast Guard in the General Fund of the Treasury.

The Secretary would have the authority to grant exemptions. Violators who do not pay would be subject to civil penalties. The liability of the United States would not be altered. There would be an annual verification of amounts collected and expended for search and rescue (SAR) activities to make certain that marine users of SAR services do not pay more than the cost of providing the service.

The principle of equity is the primary basis for the Administration's continued support for the enactment of legislation for Coast Guard user fees. The general taxpayer should not continue to bear the burden of paying for Coast Guard services which primarily benefit commercial or recreational activities rather than provide wide spread benefits to the general public. Public subsidy of commercial activity distorts the workings of the free market on which the economy depends to allocate resources efficiently. And recreational boaters are no more entitled to subsidies paid by the general taxpayer than participants of other forms of recreation. Thus, it is appropriate and in the national interest to recover some of the costs incurred by the Coast Guard from those who receive special benefits from the services provided to them.

BOAT SAFETY ACCOUNT

SENATOR ANDREWS: Why does the budget propose a reversal of the amount available from the boat fund for Coast Guard operating expenses versus State grants?

ANSWER: The Coast Guard provides several services to recreational boaters including search and rescue, aids to navigation and boating safety programs. The value of these Federal services is over $100 million annually. Our budget request recognizes that offsetting some of these costs through a larger share of the Boat Safety Account is an appropriate use of Federal motorboat fuel taxes. The proposed $15 million authorization for the States is consistent with the amounts appropriated for their use in fiscal years 1984 and 1985. Fiscal Year 1986 is the first year that the full authorized $30 million was appropriated for allocation to the States.

DULLES/NATIONAL TRANSFER LEGISLATION

SENATOR ANDREWS: What is the status of Dulles/National transfer legislation? In the event of enactment, what will be those airports' FY 1987 requirements?

ANSWER: I expect Congress to pass the proposed legislation to transfer National and Dulles Airports to an independent airport authority during FY 1986. The Senate Committee on Commerce, Science, and Transportation reported favorably on the bill in November 1985. I anticipate that the bill will come to the floor of the Senate before Easter. Hearings still need to be held by the House, of course, but I am hopeful those will occur early this spring.

After the legislation is passed, the members of the Airport Authority must be appointed and the terms of the lease negotiated. There is a lot that must be accomplished during the negotiation. For example, the Airport Authority will need to set up the mechanism for funding and operating the airports. We anticipate that these negotiations will take about a year. Considering the work ahead of us, Federal funding will still be required to operate and maintain the airports through Fiscal Year 1987. We are requesting $42 million for this last year before the airports are transferred to an independent authority.

EMPLOYMENT INCREASES

SENATOR ANDREWS: Once again this year the budget shows an employment cut of about 2,200 from past year actual levels to budget year estimate. The intervening year, however, is increased. While the congressionally-mandated Coast Guard military employment level accounts for part of the FY 1986 increase, there is an offsetting civilian decrease. Explain the increases in FHWA, NHTSA, AND MARAD despite management savings expected to occur during FY 1986 (see last year's testimony).

ANSWER: Employment increases for FY 1986 - in terms of full-time equivalents - total 162 for the FHWA, NHTSA and MARAD.

Of this amount, 68 are attributable to the increased reimbursable work MARAD performs for the Navy Ready Reserve Force program and 26 are for FHWA'S additional Motor Carrier Safety Specialists. It should be noted that, with respect to 1986 employment levels, the amounts reflected in the budget did not take into consideration the effects of the Gramm-Rudman-Hollings Act since the precise impact on each account had not been fully determined. As decisions are made and programs are reduced through such actions as hiring freezes, employment levels will drop in 1986, and will be more consistent with 1987 levels.

SENATOR ANDREWS: Explain the impact of the 648 full-time equivalent cut in Coast Guard military from FY 1986 - FY 1987.

ANSWER: The major components and impacts of the FTE decrease from FY 1986 to FY 1987 are:

a. Three high endurance cutters will be decommissioned to commence the FRAM. This is a temporary reduction in FTE and is expected to be restored in FY 89 after FRAM when the cutters are commissioned for service.

b. A76 reductions resulted in no loss of services, but a reduction in FTE by the substitution of contract services for military personnel.

c. Improved productivity initiatives reduced FTE but without loss in overall level of services. Included are a series of regionalizations, consolidations, and selected closures to permit more efficient and effective operation and support.

OST - FULL-TIME EQUIVALENT EMPLOYMENT

SENATOR ANDREWS: Also explain the growth in the Office of the Secretary full-time equivalent employment of 3% in FY 1986 and 11% in FY 1987 over last year despite Congressional instructions (S. Report 99-152) to streamline OST staffing.

ANSWER: The FTE figure for "FY 1985 Actual" included Civil Aeronautics Board personnel transferred effective January 1, 1985, (for 3/4 of year). As outlined in the chart below, there is actually a 3% decrease from FY 1985, as adjusted with CAB FTE's added for the first quarter, to "FY 1986 Enacted" and a 5.5% decrease to "FY 1986 After Sequestering." The 11% increase in FY 1987 included 155 FTE's proposed for transfer under legislation to sunset the Interstate Commerce Commission. Without the ICC figure, there is a decrease of more than 9% from FY 1985 (adjusted) to FY 1987 in OST.

	FY 1985 Actual (Adjusted)	FY 1986 Enacted	FY 1986 After Sequestering	FY 1987 Estimate
Salaries and Expenses	742	769	743	717
(Research & Development-included in S&E)	(34)	(32)	(32)	(25)
Reimbursables	10	12	12	12
Working Capital Fund	311	315	315	298
Sub-total	1,063	1,096	1,070	1,027
CAB - 1st Qtr 1985 (transfers to OST)	70	---	---	---
ICC - Residual	---	---	---	155
Totals	1,133	1,096	1,070	1,182

OST STAFFING REPORTS

SENATOR ANDREWS: Where are the two staffing reports required by February 1, 1986?

ANSWER: The two staffing reports, concerning integration of CAB staff and the reorganization of S-Offices, were forwarded to the appropriate committees on February 25 and 26, 1986, respectively.

SENATOR ANDREWS: Provide for the record revised program and financing schedules and object classification schedules for separate FAA Operations and Headquarters Administration costs.

ANSWER: The requested schedules follow:

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.
300-101

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
OPERATIONS

Program and Financing (in thousands of dollars)

Identification code 69-1301-0-1-402	19 85 actual	19 86 estimate	19 87 estimate
Program by activities:			
Direct program:			
00.01 Operation of traffic control system	1,178,752	1,211,514	1,204,501
00.02 Installation and materiel services	194,348	191,515	187,788
00.03 Maintenance of traffic control system	756,478	739,160	761,058
00.04 Administration of aviation standards program	259,193	282,365	298,938
00.05 Development direction	8,923	9,965	9,031
00.06 Administration of airports program	26,751	25,703	26,181

Identification code 69-1301-0-1-402		1985 actual	1986 estimate	1987 estimate
00.07	Direction, staff and supporting services	69,237	79,631	72,027
00.08	Human resource management	177,757	182,962	205,343
00.91	Total direct program	2,671,439	2,722,815	2,764,867
00.01	Reimbursable program	30,885	31,100	31,100
10.00	Total obligations	2,702,324	2,753,915	2,795,967
Financing:				
	Offsetting collections from:			
11.00	Federal funds	-23,894	-24,100	-24,100
13.00	Trust funds	-1,110,000	-446,000	-2,073,650
14.00	Non-Federal sources	-6,991	-7,000	-7,000
21.40	Unobligated balance available, start of year	-13,584	-5,388	...
22.40	Unobligated balance transferred net	-12,040	...	...
24.40	Unobligated balance available, end of year	5,388	...	...
25.00	Unobligated balance lapsing	818	11	...
39.00	Budget authority	1,542,021	2,271,438	691,217
	Budget authority:			
40.00	Appropriation	1,534,107	2,271,438	691,217
42.00	Transferred from other accounts	7,914	...	...
43.00	Appropriation (adjusted)	1,542,021	2,271,438	691,217
Relation of obligations to outlays:				
71.00	Obligations incurred, net	1,561,439	2,276,815	691,217
72.40	Obligated balance, start of year	314,618	311,438	392,873
74.40	Obligated balance, end of year.	-311,438	-392,873	-463,230
77.00	Adjustments in expired accounts	11,037	...	...
90.00	Outlays	1,575,656	2,195,380	620,860
SUMMARY OF BUDGET AUTHORITY AND OUTLAYS				
Enacted/requested:				
	Budget authority	1,542,021	2,271,438	691,217
	Outlays	1,575,656	2,195,380	620,860
Reduction pursuant to P.L. 99-177:				
	Budget authority	...	-98,069	...
	Outlays	...	-87,919	-10,150
Total:				
	Budget authority	1,542,021	2,173,369	691,217
	Outlays	1,575,656	2,107,461	610,710

Identification code 69-1301-0-1-402		19 85 actual	19 86 estimate	19 87 estimate
Direct obligations:				
	Personnel compensation:			
11.1	Full-time permanent............	1,518,632	1,519,625	1,538,578
11.3	Other than full-time permanent.....................	19,649	19,677	19,909
11.5	Other personnel compensation...	168,870	178,484	181,990
11.8	Special personal services payments......................	3,408	829	842
11.9	Total personnel compensation...	1,710,559	1,718,615	1,741,319
12.1	Personnel benefits: Civilian...	294,095	299,918	272,733
13.0	Benefits for former personnel..	2,555	2,400	2,400
21.0	Travel and transportation of persons....................	62,448	70,953	84,240
22.0	Transportation of things.......	19,097	19,042	18,450
23.1	Standard level user charges....	25,298	26,419	29,587
23.2	Rental payments to others......	26,796	11,148	5,222
23.3	Comm., utilities and misc. charges......................	92,585	120,459	124,933
24.0	Printing and reproducation.....	11,005	11,598	12,048
25.0	Other services.................	186,881	207,742	233,419
26.0	Supplies and materials.........	67,921	62,011	62,455
31.0	Equipment......................	15,129	14,333	10,375
32.0	Lands and structures...........	623	275	255
42.0	Insurance claims and indemnities..................	204	202	204
99.0	Subtotal, direct obligations, Federal Aviation Administration...............	2,515,196	2,565,115	2,597,640
Reimbursable Obligations:				
	Personnel Compensation:			
11.1	Full-time permanent............	13,113	13,150	12,650
11.3	Other than full-time permanent.	589	595	595
11.5	Other personnel compensation...	1,301	1,294	1,294
11.8	Special personal services payments......................	319	300	300
11.9	Total personnel compensation...	15,322	15,339	14,839
12.1	Personnel benefits: Civilian..	1,688	1,663	1,608
21.0	Travel and transportation of persons......................	1,154	1,198	1,198
22.0	Transportation of things.......	224	200	200
23.1	Standard level user charges....	7	.....	.....

Identification code 69-1301-0-1-402	19 85 actual	19 86 estimate	19 87 estimate
23.2 Rental payments to others......	274	300	300
23.3 Comm., utilities, and misc. charges......................	1,919	2,000	2,000
24.0 Printing and reproduction......	148	100	100
25.0 Other services.................	2,287	2,400	2,955
26.0 Supplies and materials.........	6,376	6,400	6,400
31.0 Equipment......................	1,486	1,500	1,500
99.0 Subtotal, reimbursable obligations, Federal Aviation Administration......	30,885	31,100	31,100
ALLOCATION TO DEPARTMENT OF DEFENSE			
23.3 Comm., utilities and misc. charges................	156,243	157,700	167,227
99.9 Total obligations............	2,702,324	2,753,915	2,795,967

Reduction Pursuant to Public Law 99-177
Program and Financing (in thousands of dollars)

Identification code 69-1301-6-1-402	19 85 actual	19 86 estimate	19 87 estimate
Program by activities:			
10.00 Total obligations..............	...	-98,069	...
Financing:			
40.00 Budget authority (appropriation)	...	-98,069	...
Relation of obligations to outlays:			
71.00 Obligations incurred, net	...	-98,069	...
72.40 Obligated balance, start of year......................	...	...	-10,150
74.40 Obligated balance, end of year......................	...	10,150	...
90.00 Outlays......................	...	-87,919	-10,150

These reductions are required by the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177).

HEADQUARTERS ADMINISTRATION

Program and Financing (in thousands of dollars)

Identification code 69-1302-0-1-402	1985 actual	1986 estimate	1987 estimate
Program by activities:			
00.91 Total Direct Program	41,674	41,562	34,913
01.01 Reimbursable Program	877	900	900
10.00 Total Obligations	42,551	42,462	35,813
Financing:			
Offsetting Collections from:			
11.00 Federal Funds	-877	-900	-900
13.00 Trust Funds	.....	.....	-26,185
22.40 Unobligated balance transferred, net	+5,024	.....	.....
25.00 Unobligated balance lapsing	695	.....	.....
40.00 Budget Authority .... (Appropriation)	47,393	41,562	8,728
Relation of Obligations to Outlays:			
71.00 Obligations incurred, net	41,674	41,562	8,728
72.40 Obligated balance, start of year	.....	5,112	6,174
74.40 Obligated balance, end of year	-5,112	-6,174	-5,597
77.00 Adjustments in expired accounts	.....	.....	.....
90.00 Outlays	36,562	40,500	9,305

Financing and Outlays (in thousands of dollars)

Identification code 69-1302-0-1-402	1985 actual	1986 estimate	1987 estimate
SUMMARY OF BUDGET AUTHORITY AND OUTLAYS			
Enacted/requested:			
Budget Authority	47,393	41,562	8,728
Outlays	36,562	40,500	9,305
Reduction pursuant to P.L. 99-177:			
Budget Authority	.....	-1,390	.....
Outlays	.....	-1,334	-56
Total:			
Budget Authority	47,393	40,172	8,728
Outlays	36,562	39,166	9,249

Object Classification (in thousands of dollars)

Identification code 69-1302-0-1-402		19 85 actual	19 86 estimate	19 87 estimate
	Direct obligations:			
	Personnel Compensation:			
11.1	Full-time permanent	20,352	20,104	20,565
11.3	Other than full-time permanent	1,122	748	748
11.5	Other personnel compensation	583	571	602
11.8	Special personal services payments	99	82	82
11.9	Total personnel compensation	22,156	21,505	21,997
12.1	Personnel benefits: Civilian	2,618	2,352	2,428
13.0	Benefits for former personnel	.....	.....	.....
21.0	Travel and transportation of persons	883	1,184	1,267
22.0	Transportation of things	72	70	80
23.2	Comm., util., and other rent	1,246	2,104	1,922
24.0	Printing and reproduction	8	32	32
25.0	Other services	12,675	12,936	5,794
26.0	Supplies and materials	348	412	426
31.0	Equipment	1,666	967	967
32.0	Lands and structures	.....	.....	.....
42.0	Insurance claims and indemnities	2	.....	.....
99.0	Subtotal, direct obligations	41,674	41,562	34,913
	Reimbursable obligations:			
	Personnel Compensation:			
11.1	Full-time permanent	832	850	850
11.3	Other than full-time permanent	5	5	5
11.5	Other personnel compensation	6	6	6
11.8	Special personal services payments	.....	.....	.....
11.9	Total personnel compensation	843	861	861
12.1	Personnel benefits: Civilian	32	37	37
21.0	Travel and transportation of persons	2	2	2
22.0	Transportation of things	.....	.....	.....
23.2	Comm., util., and other rent	.....	.....	.....
24.0	Printing and reproduction	.....	.....	.....
25.0	Other services	.....	.....	.....

Identification code 69-1302-0-1-402	19 85 actual	19 86 estimate	19 87 estimate
26.0 Supplies and materials..........	.....	.....	.....
31.0 Equipment......................	.....	.....	.....
99.0 Subtotal, reimbursable obligations..................	877	900	900
99.9 Total Obligations...............	42,551	42,462	35,813

Reduction Pursuant to Public Law 99-177
Program and Financing (in thousands of dollars)

Identification code 69-1302-6-1-402	19 85 actual	19 86 estimate	19 87 estimate
Program by activities:			
10.00 Total obligations..............	...	-1,390	...
Financing:			
40.00 Budget authority (appropriation)	...	-1,390	...
Relation of obligations to outlays:			
71.00 Obligations incurred, net	...	-1,390	...
72.40 Obligated balance, start of year......................	...	...	-56
74.40 Obligated balance, end of year......................	...	56	...
90.00 Outlays......................	...	-1,334	-56

These reductions are required by the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177).

Headquarters Administration Appropriation Crosswalk

In FY 1986, the Headquarters Administration appropriation is being executed in its current structure as appropriated. In the formulation of the FY 1987 budget, a new structure has been proposed incorporating Headquarters Administration into the Operations appropriation. The following schedules display Headquarters Administration as proposed in the FY 1987 budget request. The following table crosswalks the FY 1986 appropriation to the proposed structure.

	Pos.	($000) Amount
FY 1986 Enacted Appropriation......	629	$64,400
Realignment of functions to Installation & Materiel........	(3)	(78)
Realignment of functions to Human Resource Management..........	(125)	(8,416)
Realignment of functions to Direction, Staff, & Supporting Services......................	0	(14,344)
Total, Headquarters Administration	501	41,562

Three positions are being returned to Installation and Materiel where they were originally budgeted. In order to highlight the emphasis put on human relations, a Human Resource Management activity will be created to comprise the Centralized Training activity and the labor relations and personnel management subactivities from Direction, Staff, and Supporting Services. This activity will now be under the responsibility of one Associate Administrator rather than two. Certain ADP and IRMP costs will be reported under Direction, Staff, and Supporting Services because the actual costs for these have been associated with non-headquarters locations.

SENATOR ANDREWS: Also provide for the record object classification schedules showing fiscal year 1986 post-sequester.

ANSWER: The requested schedules follow:

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
Object Classification Post Sequester
Fiscal Year 1986
(Dollars in thousands)

		Headquarters Administration	Operations
11.1	Full-time permanent.................	18,714	1,430,374
11.3	Other than full-time permanent.....	748	19,677
11.5	Other personnel compensation.......	571	178,033
11.8	Special personal services payments.	82	829
11.9	Total personnel compensation.......	20,115	1,628,913
12.1	Personnel benefits: Civilian.......	2,352	297,641
13.0	Benefits to former personnel.......	0	2,400
21.0	Travel & trans. of persons.........	1,184	71,423
22.0	Transportation of things...........	70	18,924
23.1	Standard level user chgs...........	0	26,419
23.2	Rental payments to others..........	0	13,122
23.3	Comm., util, & misc. charges.......	2,104	107,643
24.0	Printing and reproduction..........	32	11,596
25.0	Other services.....................	12,936	194,826
26.0	Supplies and materials.............	412	61,016
31.0	Equipment..........................	967	14,774
32.0	Lands and structures...............	0	275
41.0	Grants.............................	0	0
42.0	Insurance claims & indemnities.....	0	196
99.9	Subtotal, direct obligations.......	40,172	2,449,168
	Reimbursable obligations...........	900	31,100
ALLOCATION TO DEPARTMENT OF DEFENSE			
23.3	Comm., util, & misc. charges.......	0	156,400
99.9	Total obligations..............	41,072	2,636,668

STATUS OF OREGON GRADUATE CENTER PROJECTS

SENATOR ANDREWS: Please report on the three Oregon Graduate Center projects included in S. Report 99-152 for RSPA, FRA and FHWA. When will contracts be let by each mode?

ANSWER: We have begun to implement the Report language and expect to be able to fund the required Oregon Graduate Center welding work in the very near future. The final decisions and contracting procedures will be expedited to the extent possible.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

DOT ACCOUNTING SYSTEMS

SENATOR LAUTENBERG: Madam Secretary, in your report pursuant to the Federal Managers' Financial Integrity Act (FIA) for 1985, you state that 11 of the Department's 14 accounting systems are generally in conformance with the Comptroller General's standards. Your report indicates that the three nonconforming systems are in UMTA, Coast Guard, and the Office of the Secretary. The defects in the accounting systems of UMTA and the Coast Guard have been acknowledged in your FIA reports since 1983. In the case of the Coast Guard, the problems have been recognized since 1978. Why haven't they been corrected?

ANSWER: The action necessary to correct the Coast Guard nonconformance was to design a new system. This was initiated by Coast Guard, but in FY 1984 the project was expanded to design a Departmental Accounting and Financial Information System (DAFIS). While the DAFIS project proceeds, the Coast Guard is implementing short term corrective measures (i.e., automating some manual processes) to reduce the level of the current system's nonconformance.

The action necessary to correct the Office of the Secretary (OST) nonconformance is also the implementation of DAFIS. While the DAFIS project proceeds, we are implementing organizational changes to streamline operations; implementing procedures to improve internal controls; and automating the system where possible to reduce the level of the current system's nonconformance.

The action necessary to correct the UMTA nonconformance was the implementation of a new accounting system. This corrective action was initiated prior to FY 1984, and is now in the final stage of implementation. The full implementation should correct the nonconformance.

SENATOR LAUTENBERG: What is your timetable for bringing these systems into conformance?

ANSWER: Implementation of DAFIS in the first Coast Guard accounting site is currently scheduled for late FY 1988, with the remaining sites being implemented on a phased basis as soon as possible. Interim changes to the OST system and to the Coast Guard subsystems for receivables and payables are being made to address some of the conformance issues.

Corrective action currently being taken should bring the UMTA accounting system into general conformance by the end of 1986.

SENATOR LAUTENBERG: Will you get the job done by the end of this year?

ANSWER: As indicated above, we anticipate that the UMTA accounting system will be brought into general conformance by the end of this calendar year.

SENATOR LAUTENBERG: DOT'S accounting problems are in fact more widespread than your FIA report might suggest. In a recent letter, GAO has questioned whether the department had an adequate basis for stating that the other 11 systems met GAO accounting requirements. In its report, GAO criticized DOT for inadequate operational testing of all its systems. If you haven't tested your accounting systems in operation, how can you be sure they provide reliable information?

ANSWER: We have tested our accounting systems in operation following OMB guidance. Accordingly, the level of transaction testing (i.e., number of transactions tested for each standard) that was performed provided our financial managers with reasonable assurance that their systems conform to the GAO standards.

SENATOR LAUTENBERG: Isn't your FIA report misleading in the absence of adequate operational tests?

ANSWER: We believe our level of transaction testing is adequate to provide reasonable assurance.

SENATOR LAUTENBERG: Your report indicates that you intend to make detailed evaluations of all your systems at least once every three years. When do you expect to complete operational testing of all your systems to assure that you have accurate information on the status of your systems?

ANSWER: Our intention is to complete the detailed evaluations, including more operational testing, within the three year cycle ending in 1987. Should we not be able to meet this target, we will be disclaiming (i.e., "don't know") general conformance. Those systems which were previously reported in general nonconformance will continue to be reported in that manner.

DEPARTMENTAL ACCOUNTING FINANCIAL INFORMATION SYSTEM

SENATOR LAUTENBERG: In your 1985 FIA report, you indicate that DOT is developing a department-wide accounting system [Departmental Accounting and Financial Information System (DAFIS)] which is also intended to serve as a model for other agencies. In your 1983 FIA report, you stated that you would begin implementation of this system in FY 1986. By what date do you expect to have this new system in place?

ANSWER: We expect to have the system implemented in at least one DOT accounting site before the end of 1988, with the Coast Guard being the first DOT organization brought onto the system.

SENATOR LAUTENBERG: As part of your DAFIS project, your 1985 report indicates that you have already developed a standard, Government-wide Chart of Accounts. In a recent letter to the Department, GAO was critical of the structure and coverage of DOT'S Model Generic General Ledger. When do you expect to be able to assure the GAO that your model adequately addresses GAO'S criticisms?

ANSWER: GAO was very positive in recognizing the concerted efforts we have made in standardizing the government's accounting definitions and providing standard crosswalks to the financial reports. We are leading an Interagency Task Force that is currently meeting to review the comments of GAO and the other agencies. Our goal is to obtain a consensus with the agencies before a final draft document is released. This will have a significant effect in improving the standardization of the information in financial reports.

SENATOR LAUTENBERG: How will you obtain assurance that this system is sufficiently comprehensive and detailed to meet the informational needs of not only DOT but also other civilian agencies, OMB, and the Congress as well?

ANSWER: The foundation of DAFIS is the generic ledger and requirements which have been developed through interagency consensus. Thus, we can be assured that the system will meet general informational needs. The generic general ledger and requirements will greatly enhance the development of government financial management and information systems by departments and agencies, including DOT.

SENATOR LAUTENBERG: In particular, how will you assure that this system will include the necessary data elements to meet the appropriation and programmatic informational needs of this committee?

ANSWER: The budget execution information provided by DAFIS will greatly improve the Department's capability to satisfy the informational needs of this committee, as well as DOT executives and managers, quickly and efficiently.

AMTRAK

SENATOR LAUTENBERG: In Response to a question I submitted last year concerning the impact of terminating Amtrak or other modes of transportation in the Northeast Corridor, you stated:

> "The complete disappearance of rail service could lead to an increased air travel demand in the New York-Washington market of perhaps 700 daily passengers each way... Such an increase in demand would have to be accommodated by some combination of higher load factors, larger aircraft, and more use of Dulles and Baltimore-Washington Airports."

In other words, the loss of rail passenger service in the Northeast Corridor would have a major disruptive impact. It could not realistically be accommodated without major dislocations, could it?

ANSWER: The thrust of my answer to your earlier question was that the 700 passengers in the New York-Washington market could be accommodated in a number of ways -- larger aircraft, increased load factor, and additional operations at less congested airports -- with little or no strain on the aviation system. Considering that there are upwards of 100 daily, round-trip flights in that market now, the types of adjustments I noted would certainly handle the 700 additional daily passengers with little trouble.

SENATOR LAUTENBERG: You also indicated that there would be "no requirement for additional controllers or any other FAA personnel." Yet, FAA Administrator Engen testified last year that it would be extremely costly, if not impossible, to accommodate six million more air passengers in the Northeast Corridor.

Do you agree with Mr. Engen?

Or do you stand by your original answer?

ANSWER: Both, since the two answers are not incompatible. The 700 daily passengers each way which we estimate would enter the New York-Washington aviation market with the cessation of Amtrak service amounts to about one-half million passengers annually. Even if we were to include travelers between other city pairs in the Corridor, it would be a far cry from the six million passengers which was the basis for the answer which Administrator Engen offered. I have no information that would cause me to question his assessment of system needs at that higher level of demand.

SENATOR LAUTENBERG: In seeking to justify its proposal to terminate Amtrak, the Administration makes much of the "subsidy issue." It's almost as if Amtrak is the only transportation mode that receives Government financial support. How is FAA's Operations account financed this fiscal year? What proportion of the total funding comes from the general revenues versus trust funds?

ANSWER: At the $2,694,000,000 enacted level for FY 1986 Operations, $2,248,600,000 or 83.4% is from the general revenues of the Treasury and $446,000,000 or 16.6% is derived from the Airport and Airway Trust Fund.

The Gramm-Rudman-Hollings $115,868,000 sequestering yields the same percentages: $2,151,910,000 or 83.4% from the general revenues and $426,822,000 derived from the Airport and Airway Trust Fund.

SENATOR LAUTENBERG: Would you supply for the record the porportionate amount of general revenues and trust funds included in the appropriations for FAA Operations for each fiscal year since 1975?

ANSWER: The following table is provided:

FAA OPERATIONS APPROPRIATIONS
(Dollars in Thousands)

	General Revenue	Trust Fund	Total
FY 1975	1,419,500	-0	1,419,500
FY 1976/TQ	1,977,850	-0-	1,977,850
FY 1977	1,487,800	250,000	1,737,800
FY 1978	1,622,700	275,000	1,897,700
FY 1979	1,732,743	300,000	2,032,743
FY 1980	1,844,544	325,000	2,169,544
FY 1981	1,815,400	525,000	2,340,400
FY 1982	1,481,994	809,945	2,291,939
FY 1983	1,245,803	1,276,680	2,522,483
FY 1984	2,530,000	-0-	2,530,000
FY 1985	1,525,696	1,110,000	2,635,696
FY 1986	2,248,600	446,000	2,694,600
FY 1986 GRH	2,151,910	426,822	2,578,732

GREYHOUND BUS

SENATOR LAUTENBERG: Madam Secretary, I have been seeing press reports that indicate that the Greyhound Bus Company is decreasing its route structure and may be getting out of the bus business in many communities. Buses are often cited as the alternative to Amtrak.

What happens if there is no bus either, will some communities be totally cut off from any mode of transportation other than the automobile?

We won't have essential air service, we won't have Amtrak, and we won't have buses. So, what do we say, let them drive?

ANSWER: The regular route segment of the intercity bus industry has been in a fairly continuous state of decline since 1972. This is largely due to changes in travel patterns and preferences, although recently competition from the new discount airlines has been a specific problem. Since there are no scale economies in the bus industry, Greyhound, as a large, high cost carrier, has been at a particular disadvantage. Consequently it has moved to restructure its organization and rationalize its route structure. This has included a new franchizing operation, under which certain routes are "spun off" to smaller carriers, as well as the recently announced plans to sell terminals and drop additional routes.

We expect that smaller carriers will be able to provide service profitably on many of the routes where Greyhound, with its high cost structure, cannot. While there will undoubtedly be locations that will lose service and not regain it, most communities where sufficient demand for bus service exists will have bus service provided. Our studies show that most of the communities that have lost bus service in recent years have been very small communities whose bus service consists mainly of "flag stops" along the highway. Although the restructuring that we seem to be witnessing may have painful short term consequences for some, we expect that a healthier, more rational bus industry will emerge.

AIR TRAFFIC CONTROLLERS

SENATOR LAUTENBERG: In December, I introduced a resolution urging the Administration to consider the selective rehiring of some of those air traffic controllers who were fired in 1981 as part of your effort to rebuild the air traffic control system. To date, that resolution has attracted 11 cosponsors.

I take it from the public statements of Administrator Engen that you you have no intention of entertaining that option?

ANSWER: We cannot support any future proposal to permit the reappointment of former air traffic control specialists who were separated for participating in a strike against the U.S. Government on August 3, 1981.

On December 9, 1981, the President determined that it would be detrimental to the efficiency of the service to reemploy discharged strikers with the FAA in any capacity. On March 16, 1984, the Director of the Office of Personnel Management, confirmed that the President's decision to debar the strikers from employment with this agency is indefinite in duration and extends to positions in the FAA and closely-related facilities.

The rehiring of the fired controllers now would have an adverse effect on the operation of the system. A vital element is the mutual trust and confidence among the air traffic controllers and supervisors who administer the system and the pilots who use the system. We feel that the level of trust and cooperation necessary for the safe and efficient functioning of the system would be lacking in a situation where individual controllers, supervisors, and facility managers are required to work with controllers who participated in the strike. The flying public could not be expected to retain the same level of confidence in an air traffic system which used individuals in the active control of aircraft who had been removed from their positions for striking. The public could correctly conclude that the strikers, by their conduct, had demonstrated a serious lack of judgement and restraint.

The air traffic system was kept functioning by people who suffered repeatedly at the hands of the strikers and their union. Our nonstriking controllers and supervisors endured long work-hours and weeks, countless acts of harassment, and attempts at intimidation and, in some instances, outright acts of aggression. They bore the indignities under the assurance that the strikers would not be allowed to return to duty, and that they would be punished for their illegal actions. The Government should not renege on the promise by allowing the strikers to return.

SENATOR LAUTENBERG: On Teterboro accident, your budget submission states that no air carrier crashes in 1985 could be attributable to the air traffic control system. Yet, in a briefing I received from the NTSB, they report that their first look at the mid-aid collision over Cliffside Park, N.J., did involve the failure of the air traffic control system to function properly. The controller on duty, who misidentified a plane as going west when it in fact was going east, was checked out as a full-performance level controller at Teterboro in six months.

Isn't a checkout pace of six months evidence that we are pushing controllers into positions before they are ready?

ANSWER: The NTSB has not issued a final report on the Teterboro accident, thus it would be premature to reach any conclusion concerning that accident. The controller entered duty with the FAA in 1982. He transferred to Teterboro in February 1985 and was facility-rated in June 1985. This is not an abnormal pace for a trained controller to become facility-rated at this level facility.

UNIFORM MINIMUM DRINKING AGE

SENATOR LAUTENBERG: Madam Secretary, in the continuing resolution for FY 1986, as passed by the Senate, we included a provision making the Uniform Minimum Drinking Age Act 1984 permanent. The Senate adopted legislation of this kind several times last year to make it clear to the States that Congress was serious about raising the minimum drinking age to 21 across the nation. The provision included in the continuing resolution has been introduced this year A H.R. 4083 by Rep. James Howard of N.J. Do you support this effort to make the Uniform Minimum Drinking age permanent?

ANSWER: This Administration in general, opposes the imposition of sanctions to accelerate State action. However, after careful consideration and deliberation, it was determined that in the case of the National Minimum Drinking Age the use of Federal authority was fully justified. Despite our efforts and some 18 months after signing of the Federal legislation, 12 States and the District of Columbia have not raised their legal age to purchase/possess alcoholic beverages to 21. In addition, four States that have enacted age-21 statutes have included sunset provisions where the drinking age reverts to original age when Federal withholding of highway funds ends, under existing law on September 30, 1988. Therefore, we believe it is necessary to make permanent the penalty provisions to preclude States from sunsetting their laws when Federal withholding of highway funds ends. We are convinced that it will help persuade State legislators to act in the national interest to save our children's lives by raising the drinking age to 21 across the country. Without permanent penalty provisions, the nation could return to the patchwork quilt whereby neighboring States have different drinking age laws. The "blood border" problem that exists when our youth drive from one State with 21 as the drinking age into another State with a lower age must be eliminated, the proposed change should accelerate this action.

SENATOR LAUTENBERG: What is the status of the regulations circulated for comment last year by NHTSA on the Uniform Minimum Drinking Age? When will these regulations become final?

ANSWER: The final rule on The Uniform Minimum Drinking Age Law has been drafted and is in the final approval stage. We expect clearance shortly.

UNIFORM MINIMUM DRINKING AGE

SENATOR LAUTENBERG: What is the status of regulations circulated for comment last year by NHTSA on the uniform minimum drinking age? When will these regulations become final?

ANSWER: The final regulations concerning the uniform drinking age are now in the final stages of coordination within the Department of Transportation. This process should be concluded in the near future. The regulation will then be transmitted to the Office of Management and Budget (OMB) for review under Executive Order 12291. The Department will promulgate the rule as soon as OMB concludes its review.

HIGHWAY SAFETY/AIR BAGS

SENATOR LAUTENBERG: New Jersey was the second State in the nation to pass a mandatory seat belt law. However, the State Legislature was quite specific that it was not New Jersey's intent that the law operate in such a way to cause the cancellation of air bag requirements under the Motor Vehicle Standard 208 ruling. Now New Jersey and other States are anxiously waiting for you to decide which State laws DOT will apply against the 208 ruling that passive restraint regulations will be waived if 2/3rd of the population is covered by seat belt laws.

When will you be making your views known on which States do or do not meet your standards?

ANSWER: The Department does not plan to comment specifically on each state law while the litigation challenging the Department's authority to link state safety belt use laws and the passive restraint requirement is pending before the U.S. Court of Appeals. Since we do not know how long this matter will be pending before the court, we cannot estimate the date we intend to provide states with informal advice about their laws.

SENATOR LAUTENBERG: If states like New York, New Jersey and California don't want to be counted as in favor of killing the air bag requirement, on what grounds would you count them?

ANSWER: It is difficult if not impossible to judge the subjective intent of a state in enacting a belt use law. Some Governors and legislators may want their law to "count"; others may intend just the opposite. The Department must judge the laws on the basis of the objective criteria of the rule.

AIR TRAFFIC CONTROLLER EMPLOYMENT

SENATOR LAUTENBERG: Madam Secretary, at the close of Fiscal Year 1985, there were 13,998 air traffic controllers nationwide. 59% of those were classified by the FAA as being full performance level controllers. How many air traffic controllers are presently on duty, nationwide and how many and what percentage are full performance level controllers?

ANSWER: As of January 31, 1986, we have an air traffic controller workforce on board strength of 13,972 at the centers and towers. The full performance level controllers constitute more than 82% (8,587) of the operational controllers on board, and about 61.5% of the total controller workforce.

SENATOR LAUTENBERG: Your budget indicates that you have a goal of 15,000 air traffic controllers by the end of fiscal year 1987. Last year, as noted in this committee's report on the Senate version of the DOT Appropriations Bill, there was concern about the FAA's ability to meet air traffic control staffing targets. The fiscal year 1985 goal was 14,306 controllers; at the end of the fiscal year, there were slightly less than 14,000. What is the air traffic control workforce goal for FY '86? If 14,306 was considered "full staffing" at the close of FY '85, has your estimate of "full staffing" changed to be the 15,000 mentioned in your budget proposal? What accounts for the change in definition from 14,303 to 15,000?

What is your goal as far as experience level is concerned? When will the air traffic control system return to the 82% full performance level that existed at the time of the PATCO strike?

ANSWER: The air traffic control workforce goal for fiscal year 1986 is 14,480 controllers and 15,000 for FY 1987. The increased goal is designed to meet the growing needs of the air transportation system in an orderly and manageable manner. With respect to full performance level controllers, our short-term goal is 75 percent of the staffing standard. Over the longer term, we are aiming at an 80 percent full performance level.

SENATOR LAUTENBERG: Has the definition of a "full performance level" controller changed from what it was prior to the PATCO strike? In a radar facility such as the New York TRACON for example, how many positions in a given sector must a controller check out on before he or she is considered "full performance level?" Is the number of positions on which a controller must qualify the same as it was prior to the strike?

ANSWER: The definition of a full performance level controller has not changed from what it was prior to the strike. A controller in a facility such as the New York TRACON must check out on all positions in a sector in order to qualify as a full performance level. The number of positions within a sector are generally the same although some upward and downward adjustments have been made to match higher or lower traffic demands.

SENATOR LAUTENBERG: Please supply for the total number of air traffic controllers broken down by major facility (air traffic control centers and TRACONS) and by category (full performance level's, other operational controllers, developmentals and trainees, and air traffic assistants).

ANSWER:

CONTROLLER WORKFORCE
(Full-time with Permanent Appointments)
As of January 31, 1986

Type Employment	TERMINALS	CENTERS	TOTALS
FPL Controllers	5,380	3,207	8,587
Developmentals (GS-11/12/13)	731	1,110	1,841
Operational Controllers	6,111	4,317	10,428
Developmental Pipeline (GS-05/07/09)	396	1,698	2,094
Total Controllers	6,507	6,015	12,522
Air Traffic Assistants	641	809	1,450
Total Controller Workforce	7,148	6,824	13,972

SENATOR LAUTENBERG: In the listing of air traffic controllers, FAA lists "air traffic assistants" as part of the total workforce. Are these "assistants" in training to become air traffic controllers? Why are they counted in the total air traffic controller workforce?

ANSWER: Air Traffic Assistants (ATA) are not in training to become air traffic controllers, although some ATA's do take the air traffic controller examination and eventually do go on to become controllers. ATA's are counted as part of the "controller workforce" because they perform jobs formerly performed by air traffic controllers that do not require the skills and training of an air traffic controller.

SENATOR LAUTENBERG: On October 1, 1985, the GAO reported to Congress on a survey they conducted on the air traffic controller workforce. They reported that about 15% of the workforce would be eligible to retire within two years. That means 570 controllers could retire and, they reported, 84% of them, about 478, said they probably would retire. In addition, they noted that the expected retirement rate of supervisors, who spend 36% of their time controlling traffic, was even greater. What does this projection do to your goal of adding 500 controllers? Are we making progress in adding net increases in full performance air traffic controllers or are we just treading water?

ANSWER: We are making progress in adding full performance level controllers to the workforce. As of January 31, 1986, there were 8,587 full performance level controllers on board -- a 1,007 increase from the September 1984 level. Our data shows that as of January 31, 1986, there were 2,655 controllers and supervisors in terminals and centers who were eligible to retire. Less than 5% (130) actually retired in the month of January. Under existing tax laws, we do not expect this situation to change.

NEXT GENERATION WEATHER RADAR

SENATOR ANDREWS: You've indicated that the next generation radar system, NEXRAD, will be procured in FY 87. To date, that program has been funded 60% by the Department of Commerce (NOAA), 20% by the Air Force and 20% by DOT. Is it true that in the future this system will be funded 100% by DOT and why?

ANSWER: The 1987 budget proposes that the 1987 civilian costs (NOAA and FAA's share) be funded from the Airport and Airway Trust Fund but NOAA's cost will be charged to their Operations, Research and Facilities appropriation (functional code 300), and not to DOT totals nor the Transportation function (400). The rationale for trust fund financing is that the primary beneficiaries of the enhanced weather forecasting possible with NEXRAD will be civil aviation users.

SENATOR LAUTENBERG: When will the NEXRAD system be employed at airports around the nation and how many airports will be served by NEXRAD? Will the New York area airports (JFK, LaGuardia, and Newark) each be served by a NEXRAD system or will they share a system?

ANSWER: The 14 reconfigured NEXRAD Systems that we plan to employ at airports as stage 2 of our Terminal Doppler Radar Program and the one support facility, will be installed during the period from June 1989 through May 1991. These radars will provide wind shear protection for 15 major airports and Andrews AFB. Lower activity airports in the vicinity of these 15 may also be benefited. New York will receive one of these first 14 systems. If a suitable site can be found this system should be able to provide coverage for both JFK and La Guardia airports. If such a site is not available then the coverage will be better at one of the two airports. Site selection work has just started so specific information on siting is not available at this time.

SENATOR LAUTENBERG: Given the difference between NEXRAD, a system to detect long-range weather, and Terminal Doppler Weather Radar which detects highly localized wind shears, when will airports be able to employ the Terminal Doppler System? Is consideration being given to modifying the NEXRAD system to make it more locally sensitive?

ANSWER: We are modifying 15 non-network NEXRAD Systems for use as interim Terminal Doppler Weather Radars. Detection of wind shear in the terminal environment requires an update rate of about 1 minute rather than the 5 minute update rate for the long range NEXRAD System. The interim Terminal Doppler Weather Radars will have to use a different scanning strategy to accomplish this fast update time. These systems will utilize a different software package to provide weather products, especially wind shear warnings, required by controllers and pilots. These systems will be installed in June 1989 to May 1991 time frame.

The long range NEXRAD systems cannot be modified to improve wind shear detection without compromising its role in the detection of such hazardous conditions as severe thunderstorms, tornadoes, hail, and flash floods.

SENATOR LAUTENBERG: Your budget documents indicate that no air carrier accidents in 1985 were caused by the air traffic control system. I take it that by using the designation "air carrier", you are exempting the mid-air crash over Cliffside Park, New Jersey? In that crash, which resulted in the loss of six lives, one of them on the ground, and caused a massive fire in a densely populated city in Northern New Jersey, the National Transportation Safety Board has suggested a direct link to the Air Traffic Control System. But, you're not counting that one?

ANSWER: Air carrier is defined as any person who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in air transportation (interstate common carriage of persons and/or property). Air carrier operations are usually conducted under Federal Aviation Regulations (FAR's) Parts 121 and 135. The aircraft involved in the midair collision near Teterboro Airport, Teterboro, New Jersey were a Dassault DA50 Falcon Jet owned by Nabisco Brand Corporation and a Piper PA-181 Archer. Both of these aircraft were operating under FAR Part 91 and are considered general aviation aircraft.

SENATOR LAUTENBERG: What is the current status of the development of the collision avoidance system, TCAS. Has Piedmont Airlines installed the technology for testing? What progress has been made in solving the problems of using TCAS in high density airspace such as that around New York? In order for TCAS to be effective, is it necessary for all air traffic to be equipped with Mode C transponders?

ANSWER: The Federal Aviation Administration (FAA) has been actively engaged in the development of a family of Traffic Alert and Collision Avoidance Systems (TCAS), ranging from TCAS I to TCAS III. TCAS I provides proximity information for general aviation, TCAS II provides proximity information along with resolution advisories in the vertical plane. TCAS III provides proximity information and resolution advisories in both the vertical and horizontal planes. TCAS II and III are intended for air carrier aircraft.

The engineering development of TCAS I and TCAS II are complete. The engineering development of TCAS III will be completed by the end of 1986. The Radio Technical Commission for Aeronautics (RTCA) is in the process of developing the Minimum Operational Performance Standards (MOPS) for TCAS I and TCAS III. The FAA is supporting the RTCA to complete the MOPS by the end of 1986.

The RTCA published the TCAS II MOPS in April 1984. The National Standard for TCAS II was published by the FAA in May 1984.

TCAS II is currently in an operational evaluation phase. The system has been installed in the Piedmont Airlines aircraft and certification testing is scheduled to be completed within the next two weeks.

Based on actual test results from New York and Los Angeles and simulation results, TCAS includes several features which enable it to operate in high density airspace. TCAS III will have similar features.

Since transponders with Mode C are required on all aircraft operating above 12500' and at high density airports, substantial protection is provided by the current Mode C equippage. Protection to aircraft operating in low density airspace where collision risk is already low could be improved if there were higher levels of Mode C equippage. FAA is in the process of improving safety in these airspace areas by rulemaking actions that require all pilots to turn their transponders on in flight whether operating under VFR or IFR rules.

MASS TRANSIT

SENATOR LAUTENBERG: In draft documents circulated several months ago, the mass transit plans of your department included expending $1.6 billion out of the mass transit account of the highway trust fund. Is this the figure you recommended to OMB as an appropriate level of expenditure out of the Trust Fund for FY 1987?

ANSWER: In the fall of 1985, the Urban Mass Transportation Administration was asked to estimate the maximum program level that could be funded from the Mass Transit Account, including, interest earnings on the assets of the fund. UMTA estimated this level to be a maximum of $1.6 billion, and it formed the basis of DOT's 1987 Budget Submission to OMB. However, we also proposed a $1.3 billion obligation limitation in the FY 1987 OMB submission. Subsequently, in response to the Gramm-Rudman deficit reduction requirements, and consistent with the new flexible block grant proposal, Budget Authority was reduced to $1.22 billion in the President's Budget.

SENATOR LAUTENBERG: The Congressional Budget Office (CBO) indicates that the Mass Transit Account could accomodate levels of expenditure well above the $1.2 billion you request for FY 1987. If these funds are collected and dedicated for mass transit use, why aren't they being used, particularly when you're requesting that no general revenues be used to fund mass transit?

ANSWER: The level of funding proposed is consistent with our estimate of the revenue generated by the gas tax and dedicated to the Mass Transit Account and is designed to make the program deficit neutral. Under the Unified Budget concept, the deficit is calculated based on total outlays versus total receipts. The CBO estimate includes the use of interest accruing on Account balances. When this interest is used, it contributes to the deficit since it makes program outlays exceed receipts by the amount of interest used. The interest paid by the Treasury on the trust fund balance must be raised by increased government borrowing and so adds to the budget deficit.

SENATOR LAUTENBERG: Madam Secretary, was it your recommendation to fund the Urban Mobility Block Grant at $3.3 billion or did you request a smaller, perhaps experimental program?

ANSWER: We requested the full amount from the outset. We believe that the program features of enhanced local flexibility and reduced Federal requirements warrant its adoption as a complete replacement for all of the programs involved (transit, urban highways, secondary highways and non-primary bridges).

AMTRAK

SENATOR LAUTENBERG: Madam Secretary, did you recommend the elimination of Amtrak service or a level of funding more in line with last year's budget agreement to cut Amtrak by 12.5% in FY '86 and 25% in FY '87?

ANSWER: My recommendation to OMB was for $400 million in 1987, and a phaseout over three years. But that was three months prior to Gramm-Rudman-Hollings. With the new deficit reduction targets, the Federal Government can no longer afford to subsidize Amtrak. Even after costing almost $12 billion since its inception, Amtrak still accounts for less than 1% of nationwide intercity travel and could cost another $6-$8 billion over the next ten years. The benefits of Amtrak service to the general taxpayers are not sufficient to warrant such expenditures in the face of our serious Federal deficit. However, eliminating Federal subsidies does not preclude local, State, regional or private groups from taking over Amtrak service.

SENATOR LAUTENBERG: Last year, you seemed to believe that even if Federal support were withdrawn, Amtrak would continue to operate. It seems pretty well established, given statements by Graham Claytor, that Amtrak will in fact shut down if we cut off all Federal support. Do you accept that conclusion?

ANSWER: I said last year, and I say it again now, that if those who benefit most from Amtrak—the States and localities that Amtrak serves, the freight and commuter railroads who use the Northeast Corridor, and Amtrak's management and work force—make the necessary sacrifices, then Amtrak can continue to run without being a burden to the Federal taxpayers. Mr. Claytor is correct only if Amtrak is unable to make fundamental changes to improve efficiency, and if States and localities are so uninterested in Amtrak services that they refuse to share appropriate costs for the service they receive. I think that, when seriously faced with the fact that a deficit-ridden Federal Government can no longer afford a never-ending subsidy to Amtrak, both Amtrak and other beneficiaries will take the steps needed to preserve service. I intend to work with the States, Amtrak, the commuter railroads, the freight railroads, and others to take those steps. I will need the help of Congress to demonstrate clearly, and soon, that Amtrak can no longer rely on Federal subsidies.

SENATOR LAUTENBERG: Your proposal on Mass Transit Operating Assistance costs New Jersey about $40 million. If Amtrak discontinues operations, New Jersey will have to pick up $42.3 million in costs just to continue to use the Northeast Corridor. Those increases in cost will mean a 40 percent increase in the fares charged New Jersey commuters. Do you think it's fair to request that kind of increase in the cost of going to work?

Answer: It is not just a question of fairness, rather it is a question of the appropriate Federal role in what are regional transportation responsibilities and our need to reduce the Federal deficit. The Department's proposal, however, does not necessarily mean an end to service. I have prepared a list of initiatives that would, if implemented by management and labor, reduce Amtrak's cost significantly. I have asked John Riley to work intensively with Graham Claytor to reach an agreement on the range of potential savings from those measures. Effective implementation of these initiatives can reduce Amtrak's subsidy need so that the burden on States to assume Amtrak's operations is as low as possible. Finally, we believe that the costs of using the Corridor would decrease after the initial takeover as operations are molded to fit each State's exact needs.

SENATOR LAUTENBERG: Presumably some of those who now use Amtrak between New York and Washington would fly if there was no Amtrak. In the New York Air Traffic Control Center, we have less than half the full performance level controllers we had in 1981. Traffic out of Newark Airport is up 50% in the last year and in the New York area generally it's up 15%. How do you expect to add the Amtrak users to that system without somehow compensating for it?

ANSWER: In FY 1984, 5.85 million people got on or off Amtrak trains at Penn Station and Grand Central Terminal and another 800,000 people used Newark. This figure was for all destinations, not just the Northeast Corridor. In 1979, Amtrak asked its passengers what other mode they would use if service ceased, and for the Northeast Corridor the answers indicated that about 16 percent would travel by airplane. If 16 percent of the New York Amtrak passengers instead used La Guardia, which carried 18.8 million passengers in 1984, it would increase traffic only about 5 percent. If 16 percent of the Newark Amtrak passengers went to the airport, which carried 17.4 million passengers in 1984, it would increase Newark airport traffic less than 1 percent. In my budget request for FAA, I have asked for 500 more air traffic controllers, some of whom would be for La Guardia and Newark Airports. This should more than compensate for the minor increase in air traffic that even complete discontinuation of Amtrak service would cause.

INTERSTATE TRANSFER/HIGHWAYS AND TRANSIT

SENATOR LAUTENBERG: In 1985, you approved the transfer proposal of the State of New York to dedesignate the Westway highway project for $1.7 billion in alternative highway and transit funds. Why does your budget proposal not account for this massive trade-in by increasing the amount available under the Interstate transfer program?

ANSWER: Budget authority proposed for the highway program in FY 1987 is about $2 billion lower than in FY 1986. This reduced funding is necessary to meet the deficit reduction targets of the Gramm-Rudman-Hollings Act. Given this reduced funding level, we have structured our program to emphasize preservation of existing highways instead of the construction of new facilities. Accordingly, we have stretched out funding for Interstate construction and Interstate substitution.

SENATOR LAUTENBERG: You propose to spend only $500 million on both highway and transit trade-in projects. How will this effect the goal of finishing the trade-in projects to coincide with the completion of the Interstate highway system?

ANSWER: The Interstate substitution program would be completed in about 1998 with an authorization of $500 million a year for highway and transit projects. With regard to Interstate construction, States could use any portion of the $7.8 billion combined Interstate/primary program for construction or rehabilitation of major Federal interest highways, including Interstate highways, at their discretion. However, about $1.6 billion of this sum is apportioned using the Interstate cost-to-complete formula. Annual funding of $1.6 billion a year for Interstate construction would complete the Interstate system by about 1996.

INTERSTATE TRANSFER/HIGHWAYS AND TRANSIT

SENATOR LAUTENBERG: Please provide for the record the list of eligible Interstate Transfer Highway and Transit Cities and States with (a) their allocations under the FY '86 continuing resolution; (b) their allocations under your FY '87 budget proposal with New York's Westway allocation included and (c) with New York's Westway allocation not included.

ANSWER: The information requested is shown on the following table entitled "Fiscal Year 1986 and Estimated Fiscal Year 1987 Funding for the Interstate Substitution Program."

FISCAL YEAR 1986 AND ESTIMATED FISCAL YEAR 1987 FUNDING FOR THE INTERSTATE SUBSTITUTION PROGRAM

STATE	WITHDRAWAL AREA	FISCAL YEAR 1986 FUNDING*	ESTIMATED FUNDING FOR FISCAL YEAR 1987 WITH WESTWAY**	ESTIMATED FUNDING FOR FISCAL YEAR 1987 WITHOUT WESTWAY**
ARIZONA	Tucson	1,419,723	92,630	136,508
CALIFORNIA	Sacramento	12,205,153	273,016	394,898
	San Francisco	7,693,670	6,762,015	9,672,558
COLORADO	Denver	34,531,645	3,510,203	5,021,540
CONNECTICUT	Bolton to Killingly	42,325,447	27,876,858	39,879,801
	Hartford-New Britain	50,879,969	29,251,688	41,854,289
DIST. OF COLUMBIA	Washington	14,837,626	8,229,475	11,768,929
GEORGIA	Atlanta	10,622,704	5,855,213	8,380,608
ILLINOIS	Chicago	244,627,264	68,551,330	98,071,158
INDIANA	Indianapolis	8,715,242	2,764,284	3,953,853
IOWA	Waterloo	35,952,127	16,317,566	23,347,722
MARYLAND	Baltimore	119,486,410	52,116,757	74,562,551
	Bowie to Millersville	13,276,176	4,943,535	7,074,033
	Washington	1,176,284	443,651	633,786
MASSACHUSETTS	Boston	26,192,262	7,654,192	10,949,882
	Fall River to Providence	1,255,231	702,041	1,004,308
MINNESOTA	Duluth	8,580,517	955,555	1,365,079
	Minneapolis-St. Paul	4,355,882	1,184,693	1,696,598
NEBRASKA	Omaha	2,184,300	1,204,194	1,720,974
NEW JERSEY	New York City	6,713,906	1,989,115	2,842,289
	New York City to Trenton	32,741,701	13,387,522	19,150,105
	Philadelphia	10,721,746	3,710,089	5,309,181
NEW YORK	Albany	1,246,343	682,539	979,931
	New York City	16,856,947	152,440,294	8,127,094
OHIO	Cleveland	48,273,119	8,307,479	11,885,936
OREGON	Portland	22,218,686	6,367,117	9,111,901
	Salem	2,420,998	638,662	911,678
PENNSYLVANIA	Philadelphia	8,764,537	2,837,414	4,056,234
	Pittsburgh	10,073,238	3,261,563	4,665,644
RHODE ISLAND	Rhode Island	64,024,703	38,758,486	55,451,449
TENNESSEE	Memphis	24,248,128	15,586,274	22,294,661
VIRGINIA	Washington	9,098,800	872,675	1,252,947
	TOTAL	897,720,563	487,528,125	487,528,125

*Includes Fiscal Year 1986 substitute highway and transit project apportionments and discretionary allocations, reduced in accordance with Pub. L. 99-177.

**The proposed $500 million authorization level has been reduced 2 1/4 percent for administration and 1/4 percent for the Strategic Highway Research Program. Apportionment factors were used to distribute the entire $500 million because the allocation of the $121.9 million discretionary portion of the funds cannot be determined at this time.

QUESTIONS SUBMITTED BY SENATOR SASSER

FACTS ON ARROW AIR CRASH IN GANDER, NEWFOUNDLAND

SENATOR SASSER: On Thursday, December 12, 1985, an Arrow Air aircraft crashed and burned at Gander, Newfoundland (Canada) killing all on board. The plane was carrying 248 U.S. Army troops who were part of the Multinational Force and Observers (MFO) stationed in Egypt and a crew of eight. We understand that by agreement, the Canadian Aviation Safety Board is currently investigating the crash. What role does the U.S. Federal Aviation Administration (FAA) have in the investigation?

ANSWER: The FAA is participating as an Advisor to the National Transportation Safety Board. This is in accordance with Annex 13 of the International Civil Aviation Organization (ICAO) rules.

SENATOR SASSER: What role does the U.S. National Transportation Safety Board (NTSB) have in the investigation?

ANSWER: The NTSB is the official Accredited Representative of the United States.

SENATOR SASSER: What are the Canadian Aviation Safety Board's preliminary observations on the causes of the crash?

ANSWER: The Canadian Aviation Safety Board (CASB) has issued no official observations on the cause or causes of the crash.

SENATOR SASSER: When can we expect a final report on the causes of the crash?

ANSWER: We expect a final report will be issued sometime after the hearing which is scheduled to begin on April 8, 1986, in Ottawa, Canada.

FAA INVESTIGATION OF ARROW AIR

SENATOR SASSER: On December 18, 1985, FAA announced that it would undertake an intensive investigation of Arrow Air. The FAA investigation was prompted by the crash of an Arrow Air aircraft in Gander, Newfoundland on December 12, 1985. The FAA investigation was to cover the Arrow Air crews and aircraft. When was the last time that Arrow Air was investigated (Prior to December 18, 1985)?

ANSWER: Arrow Air, Inc., was inspected during the National Air Transportation Inspection (NATI) Phase II in 1984.

SENATOR SASSER: What were the results?

ANSWER: The NATI Phase II inspection discovered 25 irregularities involving operations specifications, company manuals, training records, passenger briefing cards, minimum equipment lists, defective seat cushions, aircraft weight and balance, maintenance training, maintenance records, tools and special equipment, maintenance inspection programs, and contract maintenance. All irregularities discovered during NATI were corrected by September 18, 1984.

SENATOR SASSER: What are the results of the investigation that was started in December 1985?

ANSWER: In December 1985, the Canadian Government began its accident investigation, and the FAA commenced intense en route surveillance of Arrow Air. The Canadians have not finished their investigation nor have they released preliminary findings. FAA en route surveillance, which is limited in scope, revealed minor discrepancies which were corrected. A more intense FAA inspection of Arrow Air began in January 1986.

SENATOR SASSER: Do the results of the December investigation show an increase or decrease in Arrow Air's compliance with FAA's flight safety standards?

ANSWER: The results of FAA's December en route surveillance of Arrow Air did not produce enough data to indicate a trend. However, FAA conducted an indepth inspection of Arrow between January 21 and February 21, 1986. This inspection discovered some irregularities in Arrow's operation.

SENATOR SASSER: What specific areas show increases or decreases?

ANSWER: The indepth inspection which was completed February 21, 1986, discovered 49 irregularities involving operations specifications, company manuals, training programs, records systems, dispatch and flight release, minimum equipment lists, aircraft weight and balance, compliance with airworthiness directives, maintenance/reliability programs, maintenance inspection systems, continuous analysis and surveillance program, fueling and servicing, and deferred maintenance items.

SENATOR SASSER: What does FAA intend to do where results show a decrease in compliance?

ANSWER: The irregularities discovered during the indepth inspection completed on February 21, 1986, resulted in 12 enforcement investigations, which are pending.

SENATOR SASSER: Were the results of the investigations provided to the Military Airlift Command (MAC) and the Military Traffic Management Command (MTMC) (Note: Both of these Commands use Arrow Air).

ANSWER: MAC, which has primary responsibility for all military contract operations, was fully informed of evolving developments during the FAA's indepth inspection of Arrow by the Special Assistant to the Associate Administrator for Aviation Standards. MAC also attended the briefing presented by the FAA following the Arrow inspection.

USE OF UNAPPROVED PARTS

SENATOR SASSER: We understand the FAA temporarily grounded 10 of Arrow Air's 12 airplanes on February 8, 1986, because they had been repaired with unapproved parts. It appears that the parts were manufactured and purchased outside the United States. FAA regulations require that when parts are purchased abroad they must meet FAA standards when used in the United States. Is the purchase of foreign manufactured parts widespread in the airline industry?

ANSWER: Arrow Air (not FAA) grounded 10 of their aircraft after they were notified that the aircraft contained numerous unapproved parts. The term "foreign part" does not mean foreign manufacture of a part, but a part that is outside the control of FAA standards. U.S. aircraft manufacturers do use foreign manufactured products; however, the use of unapproved foreign manufactured parts is not widespread.

SENATOR SASSER: What procedures does FAA follow to certify these parts?

ANSWER: FAA approves the specifications for parts during the aircraft type certification process. Parts manufactured by a foreign company are produced under an FAA approved production control system, which ensures that the approved specifications for parts are met.

SENATOR SASSER: What will FAA do now to reinforce the requirement that foreign manufactured parts must be certified for use in the United States?

ANSWER: The FAA will continue its intensive surveillance programs. Arrow Air's corrective action in which it grounded its fleet is a recent example of the effectiveness of these programs. The parts that Arrow Air purchased were of original U.S. manufacture, but were obtained from a foreign source that could not demonstrate compliance with FAA standards.

FAA PENALTIES FOR FAILURES TO REPORT INCIDENTS

SENATOR SASSER: The Arrow Air DC8 that crashed was involved in an earlier incident. On November 15, 1985, the plane's tail section struck the runway in Grand Rapids, Michigan. It appears that the tail striking resulted from an unbalanced passenger loading plan that put most of the passengers in the rear of the aircraft. The incident should have been reported to FAA. However, the crew did not report it. FAA did investigate the incident, and suspended the licences of the crew for 90 days.

Not reporting such incidents is currently considered a misdemeanor. Some sources believe that the failure to report such incidents should carry more severe penalties such as being considered a felony, because these incidents could result in later air crashes. Does the FAA have an estimate of how many incidents go unreported yearly?

ANSWER: The FAA does not have an estimate of the number of incidents which go unreported yearly. An analysis of air carrier incidents between 1980 and 1985 show:

- A continual downward trend occurred in scheduled operation incidents between 1980 and 1984.
- A 17 percent rise in the rate of incidents occurred in scheduled operations between 1984 and 1985.

o No discernible shift occurred between 1980 and 1985 with regard to cause factors associated with scheduled air carrier incident reports.

Air carriers are required by Federal Aviation Regulation 121.703 to report certain incidents such as fires during flight, engine shutdown during flight because of flameout, and aircraft structure that requires major repair. Other incidents are reported voluntarily at the carrier's discretion.

SENATOR SASSER: What is the basis for the estimate?

ANSWER: The FAA has no way of estimating how many of these incidents go unreported.

SENATOR SASSER: What are the penalties for the crew and the company for not reporting incidents?

ANSWER: Potential penalties range from civil penalty to certificate action (i.e., suspension, revocation).

SENATOR SASSER: Are they based the type of incident?

ANSWER: The type of enforcement action and the severity of the penalty depend on numerous considerations, including the number, scope and nature of the violations. A more complete listing of these considerations is contained in paragraphs 205 and 206 of FAA's Compliance and Enforcement Program, Order 2150.3.

SENATOR SASSER: Are they consistently applied throughout FAA's regions?

ANSWER: All efforts are being made to assure standardization among regions and we are unaware of any significant inconsistencies which are not being addressed.

SENATOR SASSER: Should the penalties be more severe?

ANSWER: Civil penalties are currently limited to $1,000 per violation. While this can be compounded to result in significant penalties in some cases, DOT/FAA has proposed legislation which would increase the maximum penalty to $10,000. This will be more effective in cases where the violations may be few in number (perhaps only one) but, from our point of view, are very serious and thus worthy of a higher sanction.

SENATOR SASSER: Assuming that the airline should be responsible for the actions of their employees, why wasn't action taken against Arrow Air when the flight crew did not report the Michigan tail bumping?

ANSWER: Enforcement action was not taken against Arrow Air because the company had an acceptable reporting procedure in place and the crew failed to follow it. Under these circumstances, the company had taken all necessary and reasonable actions to preclude the occurrence of this type of problem.

SENATOR SASSER: Should airlines be held accountable for the negligent actions of their employees, especially when the employees do not properly report incidents?

ANSWER: Airlines are technically accountable for all actions of their employees, including negligent actions. FAA normally views an airline as subject to enforcement action for regulatory noncompliance by its employees, but often confines enforcement action to the employee where it is an isolated act not fairly attributable to a failure by the company to have taken reasonable actions to preclude such violation. For example, the FAA does not normally take enforcement action against a company where it has satisfactory procedures in place, but its employoyess fail to follow them.

PENALTIES AGAINST AIRLINES FOR EMPLOYEE MISTAKES

SENATOR SASSER: We have heard that airline companies may be pressuring (directly or indirectly) employees not to report incidents such as the one just discussed. Have FAA investigations shown that airlines pressure their employees into not reporting incidents?

ANSWER: Over the years FAA investigations have shown that some airlines pressured employees either subtly or verbally not to report incidents, malfunctions, etc. When this occurred, enforcement action was taken against the employee and/or airline.

SENATOR SASSER: Have calls to FAA's "hot line" indicated that airline employees are being pressured into not reporting incidents or other safety problems?

ANSWER: There are indications that some employees are being urged or pressured not to make reports to the Safety Hotline. Some callers have not given a name and say "for fear of reprisal from their employer." Some of these anonymous callers only identify themselves as mechanics and provide insufficient information to adequately conduct an investigation. These callers are the ones that vocalize pressure into not reporting incidents. These anonymous calls are not entered into the hotline system.

SENATOR SASSER: If FAA took action against the airline as well as the employees, would a reduction in pressure on the employees result?

ANSWER: It would be logical to assume that enforcement action resulting in adverse publicity, civil penalties, and fines would reduce pressure on employees. However, if the civil penalty enforcement action was not severe enough, the company might, and has, decided that operating revenues would outweigh civil penalty costs and continue the pressure.

SPECIAL INSPECTIONS FOR AIRLINES WITH OLDER AIRCRAFT

SENATOR SASSER: It has been stated that because of the high cost to lease or buy new aircraft, the smaller or newer and probably less capable airlines have to lease or buy older more maintenance intensive aircraft. Do you agree with this? Why?

Why not? (Remember that Arrow Air, a smaller charter airline, has a fleet of older DC-8s)?

ANSWER: There are many factors that determine what type of equipment a carrier selects and operates. There are new airlines that are buying new aircraft and old established airlines that are operating jet equipment that is over 20 years old. The differential costs of maintaining older aircraft versus new is less of a factor than interest costs, fuel costs, and aircraft availability, etc.

SENATOR SASSER: What data do you have to show that this is true or not true?

ANSWER: The data are mostly anecdotal. An example is New York Air, America West, Comm Air, and Empire, which are all buying new aircraft, while American Airlines and United Airlines are buying used DC-10's.

SENATOR SASSER: Assuming that the statement is true, what special measures does FAA take to first certify such airlines and their aircraft and then to monitor maintenance operations?

ANSWER: When a carrier is certified, it must demonstrate that it is capable of performing in accordance with the Federal Aviation Regulations under which it will operate. If there is an additional burden of maintaining an older fleet of aircraft, the capability to do so must also be successfully demonstrated.

SHOULD FAA FLIGHT STANDARDS BE INCREASED

SENATOR SASSER: FAA standards are considered minimum flight and safety standards and the average performance should be much greater than the FAA standard. Yet we have heard from some sources that many airlines see them as their operational standard. Should the standards be increased?

ANSWER: FAA considers the Federal Aviation Regulations as the minimum required to achieve the high level of safety the public expects, and as such no special effort to raise the standards is needed. The standards are always in a state of flux. Requirements which present an undue burden on the aviation community and no longer have a safety need are removed. Standards are increased as advances in technology and the lessons learned from service experience dictate. For example, in the area of crashworthiness, improvements are constantly being adopted as the state-of-the-art permits.

SENATOR SASSER: What would be the impact on flight safety?

ANSWER: The impact of improved standards would be to improve flight safety, but we can identify no areas where such improvements are needed beyond those we currently are working on.

SENATOR SASSER: What would the impact be on the industry?

ANSWER: All improvements are assessed with regard to cost versus benefits. While increased safety always comes at a price, and many times a high price, the FAA makes every effort to ensure that the impact on the industry is always reasonable considering the safety objective to be achieved. Increased standards would place a significant cost burden on the industry.

FAA RECERTIFICATION PROCESS

SENATOR SASSER: We have heard that the FAA recertification process may be too easy. Also, just because airline companies correct discrepancies over and over and get recertified over and over doesn't necessarily change the attitude of the company toward safety. Should airline companies that have had their certificate pulled by FAA ever be allowed to operate aircraft again?

ANSWER: The FAA has taken and will continue to take extremely aggressive enforcement action when circumstances dictate, including suspending or revoking an operator's certificate. The issue of recertification of an operator whose certificate has been suspended or revoked is not a simple matter. Safety is the FAA's primary concern and must always take precedence. However, the public interest and individual rights must also be considered. Air carrier operators are not usually one individual, but a wide variety of corporate mixes. Following a suspension or revocation, the corporate structure is often changed, including changes in management positions, such as the Director of Operations, Director of Maintenance, and the Chief Pilot. Ultimately, if the operator's changes are positive and the operator reapplies for a certificate and meets all of the safety requirements of the Federal Aviation Regulation (FAR), the FAA is not empowered to deny the application.

SENATOR SASSER: Should the airline officials that managed an airline that has its certificate pulled be allowed to continue to participate in the airline industry?

ANSWER: Commercial air transportation operators are governed by FAR 121 (for aircraft with more than 30 seats) and FAR 135 (30 or less seats). The FAA is empowered by FAR 135.13 to prohibit management officials, whose actions contributed to certificate revocation from serving in similar future positions. Management officials of FAR 121 operators are subject to a fitness determination by the Department of Transportation (DOT) as well as the FAA for supplemental operators. The DOT considers an individual's compliance history as part of its approval process. The FAA is in the process of developing a Notice of Proposed Rulemaking (NPRM) (Part 119) to incorporate Special Federal Aviation Regulation (SFAR) 38.2 and restructure Parts 121 and 135 certification requirements. This NPRM contains language that extends the previously referenced Part 135 management restrictions to Part 121, thus enabling the FAA to more closely control key management officials in Part 121 operations.

RISK ASSESSMENTS

SENATOR SASSER: We have heard that the FAA "paper" inspections of airlines is hardly adequate to assure safety. What is really needed according to knowledgeable sources in the industry is a risk assessment of the airlines. This assessment would determine the airlines' willingness to take risks with the flying public or military charters. Is the FAA "paper" inspection process really sufficient enough to assure air safety?

ANSWER: The FAA inspection process assures a high level of air safety. The FAA system requires hands-on inspection and surveillance of all airlines, repair stations, and other certificated operators. Published National Work Program Guidelines mandate a minimum specified number of annual, hands-on inspections by the FAA office in each locale in which these operators conduct business. The combination of National Work Program Guidelines and special indepth inspections provides a sufficient assurance of air safety.

SENATOR SASSER: How should FAA's inspection process be expanded to assure that it covers a risk assessment?

ANSWER: The FAA inspection process measures an activity or a system against a standard. The standard is generally defined by a Federal Aviation Regulation. The inspected activity or system either meets the standard or it does not. As such, risk assessment is not an appropriate part of the inspection process.

SPECIAL INVESTIGATION OF MILITARY CHARTER AIRLINES

SENATOR SASSER: As a result of the Arrow Air crash in Gander, Newfoundland, Transportation Secretary Elizabeth Dole has ordered a special FAA investigation of about 25 of the 40 plus airlines that fly charters for the Defense Department. These inspections are to go beyond the normal FAA inspections. The airlines that are to be inspected were selected by FAA in consultation with DOD. How was the selection of airlines to be inspected made, size, prior safety record, charter passengers carried, or other reasons?

ANSWER: All of the air carriers listed by Military Airlift Command Headquarters as having performed international, passenger-carrying operations in Fiscal Years 1984 and 1985 were selected for inspection. By mutual agreement between FAA and DOD, some air carriers were dropped from the list because they no longer provided DOD with passenger-carrying services.

SENATOR SASSER: What will FAA look at that goes beyond their normal inspection routines?

ANSWER: FAA is using a written, detailed inspection protocol which is designed to examine all certification requirements of an air carrier. The protocol requires a depth of inspection that exceeds other written guidance for performing routine surveillance.

SENATOR SASSER: What are the results to date?

ANSWER: Inspections of Eastern Air Lines, Inc.; Arrow Air, Inc.; and Tower Air, Inc. have been completed; and inspections of Pan American World Airways, Inc., and Rich International, Inc., are in progress. Subsequent enforcement investigations are being processed as a result of the Eastern and Arrow inspections. Data from the Tower inspection are being analyzed to determine if enforcement investigation is required.

SENATOR SASSER: When can we expect interim reports on each airline and a final report? When can we expect a final report?

ANSWER: An inspection report will be published for each airline inspected. Reports for Eastern, Arrow, and Tower should be available by March 31. There will not be a report which summarizes the results of individual inspections.

INSPECTION OF BATCH-AIR MAINTENANCE FACILITIES

SENATOR SASSER: Recently, FAA performed an intensive inspection at Batch-Air, a company that performs general repairs and heavy engine maintenance for Arrow Air and other airlines. We understand that FAA officials found the Batch-Air maintenance facility was in top condition. However, we also understand that the Arrow Air aircraft that crashed in Gander, Newfoundland had a number of maintenance problems including trouble with its flight data recorder and other instruments as well as a number of deferred maintenance items (DMIs). Is it true that FAA found Batch-Air to be a "top notch" maintenance facility?

ANSWER: The Batch-Air repair facility consists of two parts, the turbine engine facility and the airframe repair station. FAA only inspected Batch Air's turbine engine facility and, except for some procedural problems, found it to be in compliance with Part 145 of the Federal Aviation Regulations. The airline maintenance problems referred to are the responsibility of the airline (Arrow) and not the contract repair facility (Batch-Air).

SENATOR SASSER: If Batch-Air is a "top notch" maintenance facility, then why were there so many maintenance problems with the Arrow Air aircraft that crashed?

ANSWER: Batch Air's airframe repair station, which performs contract maintenance for Arrow Air, was not inspected by the FAA at that time. Additionally, as a certificated air carrier, Arrow Air is obligated to schedule its own maintenance. As a contractor, Batch Air is required by FAR 145 to perform Arrow's maintenance in accordance with Arrow's requirements. In other words, the ultimate responsibility for the maintenance remains with Arrow as the certificate holder.

SENATOR SASSER: Did your inspectors look at what maintenance was performed for Arrow Air by Batch-Air, especially maintenance on the plane that crashed?

ANSWER: An indepth inspection of Arrow Air, Inc., including its contract maintenance program, was completed on February 21, 1986. During this inspection all of the maintenance records for Arrow's aircraft were reviewed. The Canadian Government has the records for the plane that crashed to use in the accident investigation. An FAA inspector assigned to the inspection team traveled to Canada to review these records.

SENATOR SASSER: What did they find?

ANSWER: The inspector found that the records for several parts and components installed on the aircraft that crashed were either incomplete or missing. Some of the records indicate that several foreign parts (not approved by FAA) were installed.

SENATOR SASSER: Was the maintenance below what should be expected for older DC-8 aircraft?

ANSWER: As noted above, the records are being reviewed as part of the accident investigation.

SENATOR SASSER: If the Arrow Air aircraft that crashed had not been to Batch-Air for some time prior to the crash, have your inspectors still tried to determine why the plane had so many maintenance problems?

ANSWER: FAA expects that a thorough review of maintenance problems with that aircraft, to the extent they existed, will form a part of the final accident report.

SENATOR SASSER: If so, what have they found?

ANSWER: An FAA review of the records in Canada for the accident aircraft showed that either Arrow Air personnel or contract personnel had taken maintenance action to correct chronic hydraulic irregularities, but the action taken did not appear to correct the problems.

SENATOR SASSER: If not, why haven't they determined why the plane had so many maintenance problems?

ANSWER: From its inspection data, the FAA has no factual evidence that shows why the plane had so many maintenance problems.

FAA's INSPECTIONS OF AIR CARRIERS

SENATOR SASSER: Recently, GAO reported that there were several problems in the air carrier inspections being performed by FAA's regions. For example, GAO found that

- -- some air carriers with a similar number of operating hours had significant differences in the total number of FAA inspections;
- -- 29 air carriers (about 32 percent) in GAO's sample of 92 of the nation's approximately 500 scheduled commercial air carriers had no avionics inspections during fiscal year 1984; and
- -- FAA regions varied in the proportion of operation, maintenance, and avionics inspections they performed, and in the percentage of inspections that resulted in unsatisfactory ratings for the carriers.

GAO also stated that the results of DOT and FAA studies have shown that (1) FAA regions do not interpret or apply FAA regulations and policies uniformly; (2) FAA offices do not communicate with each other effectively; and (3) FAA orders, handbooks, and other documents that guide inspections need to be revised and updated. What has FAA done to make its regions follow uniform inspection criteria and do uniform inspections?

ANSWER: FAA has consolidated regional inspection programs into a nationally directed inspection plan. This plan is published in FAA Notice 8000.266, 1986 Flight Standards National Inspection Plan (NIP). The FAA has also provided each NIP inspection team with a written, detailed protocol for conducting inspections. The protocol prescribes extensive inspection criteria for operations and airworthiness functions. The protocol also prescribes a standardized reporting format.

SENATOR SASSER: What has FAA done to make its regions communicate with each other more effectively?

ANSWER: The FAA is dealing with its internal communications problems by accelerating the implementation of some Aviation Safety Analysis System (ASAS) automation subsystems. These ASAS subsystems provide for more rapid headquarters and regional acquisition of inspection and work program data. The first priority in ASAS is to achieve maximum utility from existing systems and to promote the eventual elimination of old - and slow - communications habits. Also, by March 1986, the Enforcement Information System of ASAS will be fully implemented. This system will accelerate the progress of enforcement actions.

SENATOR SASSER: What has FAA done to update and revise its orders, handbooks, and other documents that guide inspections?

ANSWER: In February 1984 the FAA responded to Secretary Dole's mandate to conduct an "in-depth review of the entire safety inspection program -- to determine whether or not the current inspection work force is being used as efficiently and effectively as possible." The response consisted of a multifaceted project denoted the Safety Activity Functional Evaluation (Project SAFE). One of the major program elements of Project SAFE was formalized in FAA Order 1320.50 on October 10, 1985, which mandates the "Modernization and Standardization of Aviation Standards Field Inspector Handbooks." This order outlines a major effort to completely redevelop and issue new field inspector handbooks for the air carrier, airworthiness and general aviation inspector disciplines in the work force.

Several Aviation Standards headquarters personnel have been detailed to oversee panels of field inspectors, who began rewriting the handbooks in September 1985. To date, several sections dealing with "organizational certification" guidance have been developed and are nearing the first draft stage for headquarters and field coordination. The completed handbooks should be ready to issue in early 1987.

SENATOR SASSER: Given all of this inconsistency and the poor record of aviation safety in 1985, shouldn't FAA change its widely decentralized regional approach to aviation safety oversight and centralize the management and operations of this vital function to assure that it is properly carried out? What are your plans to do this, and what have been the results? (Please provide specific details)

ANSWER: The FAA is aware of the concerns expressed about the FAA's decentralized regional approach to aviation safety oversight. However, the decentralized approach does not mean that the issuance of direction and guidance is decentralized. In fact, all technical guidance and policy issues pertaining to inspector work functions emanate from FAA headquarters. Regional Directors and Flight Standards Division managers are not empowered to define inspection, surveillance or certification standards. Rather, national guidance in the form of regulations, handbooks, orders, and notices define minimum acceptable standards, on a national level, with which an airman, air agency or air carrier must comply. In order to address concerns about decentralization, the FAA has initiated a centralized effort, directed by the Associate Administrator for Aviation Standards, to provide more explicit technical direction and guidance to field personnel. The FAA has begun, for example, to coordinate from its Washington headquarters, special indepth inspections of every major U.S. carrier. Until recently, most special inspections were coordinated regionally. The entire concept of "Project SAFE" has evolved into a massive centralized effort to standardize inspector work functions, performance standards, hiring practices and numerous other facets of the AVS work force and functional roles. A specific example lies within the current effort to completely update field inspector handbooks. This effort is totally under the direction of FAA headquarters which is responsible not only for implementation, but also for subsequent evaluation of field offices to ensure that inspectors are performing job functions in a standardized and efficient manner. It is notable that these new handbooks cannot be changed by the regions as they have been in the past. This decision was made to prevent different regional interpretations of nationally published policy and guidance.

In summary, the FAA is addressing the concerns about "decentralization" and "nonstandardization" aggressively and correctly by attending to the needs of its work force.

COMMUNICATION BETWEEN FAA MAC AND MTMC

SENATOR SASSER: FAA Order 8000.4E dated December 17, 1976, and still in force states in section 6e that:

> "Since MAC cannot maintain frequent contact with all carriers, the district office having certificate responsibility will notify the Contract Airlift Survey Office (MAC/LGI), whenever a potential problem area is discovered particularly involving safety."

It also states:

> "Carriers performing airlift services for the Department of Defense are aware that the Commander of MAC may suspend service for compromising safety."

However, MAC was not informed of the results of the National Air Transportation Inspection (NATI) in 1984, also, MAC was not informed of the results of NATI II which concentrated on Arrow Air and several other air carriers with special problems. We understand that Order 8000.4E does not include the Military Traffic Management Command (MTMC). We also understand that FAA has a computerized Aviation Safety Analysis System (ASAS) that collects information to enable agency personnel to pinpoint troublespots and potential problem areas. Finally, we also understand that MTMC and MAC do not always inform each other of problems they are having with air carriers. All of this seems to lead to the conclusion that something needs to be done to assure that safety and other problem information needs to be passed between FAA, MAC, and MTMC. Why doesn't FAA provide MAC with information on the air carriers MAC uses?

ANSWER: The FAA does provide the DOD with pertinent safety information on military charter operators. FAA Order 8000.4E requires that district offices having certificate responsibility for military contract carriers notify the Contract Airlift Survey Office (MAC/L61) whenever potential safety problems are identified.

SENATOR SASSER: Why doesn't FAA provide MTMC with information on the air carriers MTMC uses?

ANSWER: Contrary to the formal arrangements between FAA and MAC, FAA and MTMC do not have provisions to share information. In the past MTMC has not requested information of FAA, however, FAA inspection information is available to MTMC and will be provided upon request.

SENATOR SASSER: Do MAC and MTMC provide FAA with information on the problems they may be having with air carriers?

ANSWER: There are provisions in Order 8000.4E for MAC to share information with the FAA regarding problems with MAC charter air carriers. Similar provisions between FAA and MTMC do not exist under current guidelines.

SENATOR SASSER: Should the information in ASAS be provided to MAC and MTMC?

ANSWER: ASAS information in its current form would not be useful to DOD. If future ASAS products could be useful to the military, FAA will work with the DOD to provide access to this information.

SENATOR SASSER: What changes does FAA intend to make to assure that it provides safety related and other problem related data to MAC and MTMC? Also, what is FAA going to do to assure that it receives the same data from MAC and MTMC?

ANSWER: FAA Order 8000.4E is being rewritten in coordination with the military to further define what information is to be exchanged between agencies. Additionally, the FAA intends to include a chapter on military charter operations in its new inspector handbooks. The revised order and new handbooks will fully define who reports what to whom. This will ensure effective communication between FAA and DOD.

FAA AND MAC AIRPORT SECURITY SURVEYS

SENATOR SASSER: Public Law 99-83, "International Security and Development Cooperation Act of 1985," dated August 8, 1985, requires the Secretary of Transportation to conduct assessments of the effectiveness of the security measures maintained at foreign airports. If the Secretary of Transportation finds that certain airports do not meet standards and take no action to improve the situation, then the Secretary may, according to the Act, withhold, revoke, or impose conditions on the operating authority of air carrier to use those airports. We also understand that MAC does airport studies that include assessments of security. How many airports has FAA surveyed since the passage of the Act?

ANSWER: There are approximately 180 foreign airports that are served by U.S. carriers, or are the last point of departure to the U.S. for a foreign carrier, and subject to the assessment program called for by P.L. 99-83. Of these, FAA identified 50 major airports for immediate, comprehensive assessments. These assessments were completed in 1985, with some of the airports being visited several times. In addition, between mid-August and early November 1985, 79 other airports were visited and subjected to a more limited review of their security posture by teams consisting of an FAA special agent and several law enforcement officers provided by other Federal agencies. FAA has initiated a 1986 assessment program and has scheduled a minimum of one comprehensive and two supplemental assessments of each of the 180 airports.

SENATOR SASSER: Which of these were determined to be "high risk" airports?

ANSWER: No airport has been determined to be "high risk" because of the results of an airport assessment. Certain airports have been identified in consultation with the intelligence community to be a higher risk than other airports because of the potential for terrorist action in the area. For this reason, at 41 foreign airports where U.S. air carriers operate, the carriers have been required to implement "enhanced" security procedures that are more stringent than those required at all other airports. At 15 of these airports, the carriers are required to implement even more stringent, "extraordinary" measures. The latter 15 airports are: Amsterdam, Athens, Barcelona, Bombay, Brussels, Cairo, Dhahran, Dubai, Karachi, Kuwait, Lisbon, Madrid, Milan, Nice, and Rome. Incidently, these 41 airports are routinely subjected to more frequent airport assessments than are conducted for other airports.

SENATOR SASSER: What special conditions were imposed on air carriers serving these airports?

ANSWER: As indicated, the carriers serving these airports are required to implement more stringent measures. For obvious reasons, FAA does not want to publicize the special, "enhanced" or "extraordinary" security procedures, to do so would not be in the best interest of the traveling public. However, one measure called for at certain airports is the positive match of each piece of baggage with each passenger. There are also a number of additional procedures that the air carriers are implementing.

SENATOR SASSER: Have any air carriers violated FAA rules regarding these airports?

ANSWER: The FAA has not found any air carrier to be in violation of FAA requirements for either enhanced or extraordinary security measures. In certain cases, adoption of specific procedures requires the support of a host government and for a variety of reasons, although rarely for lack of will, the host government may have difficulty in immediately providing the needed support or otherwise implementing the particular measure.

SENATOR SASSER: What did FAA do in those cases?

ANSWER: The FAA, the Department of State, officials of the concerned U.S. Embassy and the U.S. air carriers worked closely with the foreign government to enable compliance with the specific security procedures.

SENATOR SASSER: Has FAA informed MAC of its survey findings?

ANSWER: No. FAA has not to date found an airport that does not meet the minimum standards prescribed by P.L. 99-83. FAA has not provided MAC with the routine assessment results.

SENATOR SASSER: Have the MAC carriers been informed of the problem airports?
ANSWER: As noted above, FAA has not found an airport that fails to meet the prescribed standards. If an air carrier is subject to FAA security rules as a result of flying 60-seat aircraft and conducting either scheduled or public charter operations, they would be kept apprised of all security requirements to include the identification of those airports where FAA has called for "enhanced" or "extraordinary" measures.

SENATOR SASSER: What actions must these carriers take?
ANSWER: Technically, when conducting private charter operations, e.g., MAC operations, the carrier would not be required to comply with the FAA security measures. FAA is not aware whether MAC levies any security requirements on their private charter carriers.

SENATOR SASSER: Have they complied with the instructions (assuming that FAA notified MAC, and MAC, in turn, notified the air carriers)?
ANSWER: FAA has not notified MAC.

SENATOR SASSER: Has MAC provided data from its security reviews to FAA?
ANSWER: In the past, FAA has received reports of airport assessments conducted by MAC.

SENATOR SASSER: What needs to be done to assure more security coordination between FAA and MAC?
ANSWER: Coordination between FAA and MAC has always been very good, including the exchange of security information. The FAA has established procedures to assure that MAC is notified if, through an FAA assessment, an airport is identified as having failed to meet the minimum standards. The entire FAA-MAC coordination effort is presently under review by a DOD-DOT-FAA senior-level task force.

SCOTT FITZHUGH BRIDGE

SENATOR SASSER: Madame Secretary: On August 30, 1985, you stated that there were no Federal Discretionary Bridge funds available for the replacement of the Scott Fitzhugh Bridge across the Tennessee River at Paris Landing, Tennessee. The State of Tennessee has insufficient funds for the replacement without Federal help. The area is suffering economically from the narrow and unsafe bridge. Is it possible for your Department of Transportation to find other unexpended funds to devote to the badly-needed replacement of the Scott Fitzhugh Bridge?
ANSWER: There are no unexpended discretionary funds available to fund the replacement of the Scott Fitzhugh Bridge in fiscal year 1986. The State may want to consider using their formula bridge replacement funds to advance this project. Competition for the discretionary

bridge funds has been intense. The Federal Highway Administration received over $700 million worth of candidates for the less than $200 million funds available this year. After responding to the first priority of completing projects already started, only four new projects were selected for funding.

We will again, give consideration to the replacement of The Scott Fitzhugh as a candidate for future allocations of discretionary bridge funds.

SUBCOMMITTEE RECESS

Senator ANDREWS. The subcommittee then stands in recess until Wednesday, February 26, when we will hear the Office of Inspector General and Research and Special Programs Administration.

[Whereupon, at 11:52 a.m., Wednesday, February 19, the subcommittee was recessed, to reconvene on Wednesday, February 26.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1987

WEDNESDAY, FEBRUARY 26, 1986

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, D'Amato, and Chiles.

DEPARTMENT OF TRANSPORTATION

OFFICE OF INSPECTOR GENERAL

STATEMENT OF JOSEPH J. GENOVESE, ACTING DEPUTY INSPECTOR GENERAL

ACCOMPANIED BY:
- GLENN W. WIENHOFF, ASSISTANT INSPECTOR GENERAL FOR POLICY, PLANNING, AND RESOURCES
- H. RAE SCOTT, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS
- KENNETH T. FURUKAWA, ACTING ASSISTANT INSPECTOR GENERAL FOR AUDITING

OPENING REMARKS

Senator ANDREWS. The subcommittee will come to order. This morning we will hear from the Acting Deputy Inspector General, Mr. Joseph Genovese, and the Administrator of the Research and Special Programs Administration, Miss Cynthia Douglass. I have asked both witnesses to forego opening statements in the interest of time, but let me assure you that your statements were made available to the subcommittee in advance and they will be printed in the record in their entirety just as though you had uttered every word.

We think there are things that you would rather do than sit in those chairs and go through material that we have already looked at.

Senator, do you have an opening statement?

Senator D'AMATO. Mr. Chairman, in the interest of time, I would like to offer my statement as if read in the record in its entirety.

Then, Mr. Chairman, if it meets with your permission, I have two questions which I would like to submit in writing. One of them, and I would be interested in getting a report on it, is the question of the 63rd Street subway tunnel project and the Archer Avenue subway project with respect to the completion of audits. Have they been done? If not, when will they be done?

And they can be answered.

Senator ANDREWS. Sure. We will have those asked for the record.

We also, without objection, will include an opening statement by Senator Chiles at this point in the record.

[The statements follow:]

STATEMENT OF SENATOR ALFONSE M. D'AMATO

Mr. Chairman, I am pleased to offer my comments concerning the fiscal year 1987 Transportation Department budget for the Office of Inspector General and Research and Special Programs. These components of our transportation budget serve an important role in the overall success of the Department's programs.

The Office of the Inspector General helps the Department of Transportation enhance its programs and operations by conducting audits and investigations. These vital functions serve to help improve productivity and economy by detecting and preventing fraud, waste, and abuse. The Inspector General's responsibilities cover headquarters and field operations, general management and administration.

During fiscal year 1985, the Inspector General reviewed several public transit projects of interest to New York City. The multimillion-dollar 63rd Street subway tunnel project and the Archer Avenue subway project have been scrutinized with respect to testing of materials, concrete placement, and other items. These reviews have proved useful in pointing out areas for needed improvements in Transit Authority procedures. They have also assisted me in drafting new legislation, S. 1931, which requires major transit capital projects to have detailed construction management plans as a precondition for Federal funding.

On September 18, 1985, the Office of the Inspector General also released a report concerning corporate expenditures of the St. Lawrence Seaway Development Corporation [SLSDC]. This report criticized the SLSDC for spending $120,000 with respect to renovation of a recreational facility at Cape Vincent, NY. Also criticized was the expenditure of $5,213 for reception and representation, $37,900 for nonpersonal services—for example, direct mail system, analysis of insurance needs, et cetera—and the use of chartered aircraft. The efficient, economical, and successful operation of the SLSDC is of great interest to me. I certainly want to give Administrator Emery the opportunity to offer his comments on these findings when he appears before this subcommittee.

The proposed budget for fiscal year 1987 would provide $27.6 million for the Office of the Inspector General. This is about the same level as requested in fiscal year 1986 for these activities. This vital work must continue and needs to be funded adequately.

We will also discuss today the budget for the Office of Research and Special Programs. The administration has requested $20 million in budget authority for this program, which is less than $1 million over the amount requested last year. These funds are targeted for the administration of the hazardous materials and pipeline safety programs, as well as for multimodal research, analysis and technical developments, and special programs.

Mr. Chairman, I look forward to hearing the testimony of today's witnesses as we review the fiscal year 1987 budgets for their programs.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR LAWTON CHILES

Mr. Genovese, we appreciate your appearing before the committee today in support of your budget request for $27,630,000 and 462 positions.

We have reviewed your statement and the budget justification material regarding your continuing bid rigging investigations and your new offensive against fraudulent disadvantaged business enterprises. I was particularly interested to see that you are reviewing duplicative weather capital spending between the FAA and the Weather Service. We will be interested in learning the details of this FAA study as it offers the potential for savings in the fiscal year 1987 budget.

BUDGET REQUEST

Senator ANDREWS. Mr. Inspector General, Secretary Dole noted in a hearing before this subcommittee last week that overall the Department's fiscal year 1987 budget proposes budget authority of $21.7 billion compared to $26.8 billion for fiscal year 1986, and $28.8 billion for fiscal year 1985. That amounts to an almost 25-percent reduction from fiscal year 1985.

In light of these sizeable decreases, how does the Office of the Inspector General justify a fiscal year 1987 budget request that exceeds even the pre-Gramm-Rudman-Hollings fiscal year 1986 budget authority level? How come you are going up so far when everybody else is going down?

Mr. GENOVESE. Mr. Chairman, our budget obviously reflects the Department's priorities. We are very grateful that this budget has been approved within the Department.

I think it can be justified by the fact that we do serve as a very valuable tool in identifying areas where the Department's programs can be more efficiently managed. I think that it can be justified on that basis.

I would like to add that in the audit and investigative area our work begins after the programs have begun or are initiated and the money has been spent. To the extent that the cuts you have indicated take place in subsequent years, we will have to make some adjustments to our resources, but we do not see any decrease in our workload for the next couple of years as a result of the proposed 1987 budget cuts.

[The statement follows:]

Statement of Joseph J. Genovese

GENERAL STATEMENT

Mr. Chairman and members of the subcommittee, I am pleased to appear before you today to discuss the Office of Inspector General's (OIG) Fiscal Year 1987 budget request. With me are Mr. Glenn Wienhoff, Assistant Inspector General for Policy, Planning, and Resources; Mr. H. Rae Scott, Assistant Inspector General for Investigations; and Mr. Kenneth Furukawa, Acting Assistant Inspector General for Audits.

Our budget request is for $27.6 million and 459 positions. The decrease of 12 positions is associated with the elimination of the Essential Air Service Program Audit function. The President's Budget includes a proposal to eliminate the EAS Program at the beginning of FY 1987. Therefore, our activities in this area will be to assist with final audits and payments with total reduction of our responsibilities by the end of the year.

In order to accommodate the Gramm-Rudman-Hollings reduction, we have had to curtail certain support activities, such as permanent change of station moves, training, equipment and furniture buys, space alterations and leases. In addition, we have coordinated with the Defense Contract Audit Agency (DCAA) to reduce the level of contract audit support previously planned for FY 1986. We are requesting the funds necessary to restore these needed support activities and contract audit effort in FY 1987, as well as the funds necessary to cover the increased cost of presently occupied leased office space and within grade increases and promotions.

Accomplishments

During FY 1985, audit recoveries, fines, penalties, and other investigative cost avoidance totaled $911 million--more than 34 times the amount spent on the operation of the OIG. During this period 1,755 audit reports were issued.

Investigation of antitrust violations in DOT-funded construction projects are active in 34 states and Puerto Rico, with grand juries sitting in 17 states. A total of 202 investigative cases were closed in FY 1985. Our investigative efforts resulted in 99 indictments and 72 convictions.

Audit Activities

Audit activities will continue to focus on internal review of DOT programs with a view toward evaluating the effectiveness of programs and Federal fund usage.

During the past Fiscal Year, we reported on a significant number of cost-saving issues. We pointed out that vigorous implementation of value engineering in road building can potentially save millions of dollars annually. Better approaches to highway beautification, park and ride lots, and interstate highway rest areas can produce significant savings. Our audits disclosed that less costly approaches can be taken in areas associated with the National Airspace System modernization. We also reported that measures could be taken which would effectively extend the service life of airport pavements by as much as 5 years. A program requiring reconfirmation of continuing eligibility of former FAA employees to continue receiving disability compensation would yield substantial savings.

We found that facilities and resources devoted to Coast Guard Search and Rescue operations could be reduced without loss in responsiveness to emergency cases. Also, family housing in the Coast Guard could in certain locations be met less expensively from community sources. The National Highway Traffic Safety Administration was funding seed money on selective traffic enforcement projects which were not developing any long-term safety benefits. We also found that a transit authority did not follow industry testing standards for poured concrete and had inadequate assurance of structural integrity of the project.

During the coming year an inspection program will be instituted. This program is designed to quickly review a facility to inform management of any problems. Pilot tests are underway in Kansas City and Atlanta. These inspections will focus on administrative areas such as attendance, leave, travel vouchers, and use of Government vehicles; and program areas such as staff utilization, accomplishment of workload, and productivity of resources.

Investigative Activities

Investigative activities will continue to focus on antitrust violations in DOT-funded construction projects. There are indications that bid rigging may be recurring in some states where investigations have been closed. New investigations are being initiated in those states where recurrence has been detected.

Through January 1986, OIG bid rigging efforts have resulted in 640 indictments, 518 convictions, $61 million in fines and court ordered recoveries, and 59 years in prison sentences.

We have developed a course on "How to Conduct Highway Construction Bid Rigging Investigations," which was given three times in 1985. This course which has been very well received, has been attended by investigators from the Environmental Protection Agency, General Services Administration, Air Force Office of Special Investigations, Defense Criminal Investigative Service, many state officials, and mass transit officials.

Approximately half of the states now have computerized systems to assist in estimating prices and discovering possible antitrust violations. FHWA is also developing a Highway Collusion Detection System.

In addition to antitrust investigations, we have mounted a major offensive against fraudulent disadvantaged business enterprises (DBEs). Ten percent of DOT construction monies authorized by the Surface Transportation Act of 1982 are required to be directed to DBEs. Abuses of the program have been identified involving sham minority enterprises who are merely fronting for non-minority contractors (false fronts), legitimate DBEs who are cajoled into acting as brokers for pass through subcontracts to non-DBEs, and unauthorized use of the name of a legitimate DBE without their knowledge or consent. We have given wide publicity to the problem through press releases, letters to State Attorneys General, and wide circulation of the DOT/OIG hotline encouraging anyone with knowledge of fraud in the DBE program to call.

Investigations are targeted toward prosecuting non-DBE prime contractors who are abusing the program. Since October 1, 1984, we and the Department of Justice have obtained 34 indictments in fraudulent DBE cases. Of those indictments, 28 were obtained in FY 1985. Action has been taken to deny future business (decertification) in many of these cases. Since October 1, 1984, we and the Department of Justice have also obtained 29 indictments in criminal violations involving false claims, contract/cost mischarging, embezzlement, false statements, theft of Government property, etc.

Use of Technical Experts

We are continuing to receive outstanding results from our engineering support. In addition to a general engineer permanently assigned to our staff, there are engineering support services contracts in place which afford a wide range of engineering expertise. The use of engineering expertise in a recent procurement change orders audit enabled the OIG to determine which change orders resulted from poor preparation of the contract scope of work, and which from changed conditions discovered during the project. It also enabled us to make specific recommendations for improving contract documents and procedures for bidding and bid evaluation to prevent unnecessary change orders and windfall profits.

The general engineer also develops specifications and scope of work for procurement of technical support services. In a recent OIG investigation, support services were utilized to test tank trucks to determine if tank welds met the applicable codes. The tanks failed to pass the weld inspections and action was taken to prosecute the manufacturer and remove up to 200 tank trucks from service across the country.

Summary

I believe we have had a very successful year and we are looking forward to serving the Department in the future. In the current atmosphere of tight budgetary resources, we will be doing our utmost to assist the Department to insure that it receives the maximum return for each Federal dollar spent. I am confident that the OIG can be responsive to the needs of DOT and to its responsibilities under the Inspector General Act.

This concludes my statement. I will be glad to answer any questions you may have.

BIOGRAPHICAL SKETCH

KENNETH T. FURUKAWA

DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITING

Type of Appointment: Senior Executive Service - Career

Date of Birth: February 5, 1934

Place of Birth: San Pedro, California

Education:

B.S., University of Denver (1960)
M.A., Central Michigan University (1980)

Professional Certification:

Certified Public Accountant
Certified Internal Auditor

Professional Experience:

1983	Deputy Assistant Inspector General for Auditing, Office of Inspector General, DOT
1981-1983	Director, Office of Regional Programs, Office of Inspector General, DOT
1980-1981	Director, Office of DOT-wide Programs, Office of Inspector General, DOT
1978-1980	Internal Audit Policy Staff, Office of Assistant Secretary of Defense (Comptroller)
1977-1978	Project Manager, Defense Audit Service
1976-1977	Foreign Assistant Inspector, Department of State
1971-1976	Audit Director, Pacific District, U.S. Army Audit Agency
1963-1969	Auditor, Western and Pacific Districts, U.S. Army Audit Agency
1960-1963	Assistant Fiscal Officer, Veterans Administration

Honors and Awards:

1983	Secretary's Award for Meritorious Achievement
1982	Certificate of Special Achievement
1977	Meritorious Service Award
1970	Special Act Award
1970	Certificate of Achievement (Outstanding Auditor of the Year
1969	Sustained Superior Performance Award
1966	Sustained Superior Performance Award

Affiliations:

American Institute of Certified Public Accountants
Virginia Society of Certified Public Accountants
Association of Government Accountants
Senior Executives Association

SAFETY PROGRAMS

Senator ANDREWS. The inspector general's audit activity focuses on the Department's major programs to evaluate effectiveness. Secretary Dole has placed highest priority on safety programs. Have your resources been similarly tailored?

Mr. GENOVESE. We have, for the last several years, done some limited review in the safety area. I think that the Secretary and the FAA have devoted sufficient resources to safety programs at this time. Therefore, we have not devoted a significant amount of resources to this area.

We have looked at some FAA safety areas in three regions. We looked at some helicopter areas, which is also in the safety area.

AIR TRAFFIC CONTROLLERS

Senator ANDREWS. Last week's hearing with the Secretary established a shortfall in the number of air traffic controllers announced to the public and testified to in congressional hearings. Has the inspector general reviewed air traffic control activity to find reasons for the controller resource levels to fluctuate?

Mr. GENOVESE. Mr. Chairman, we have not looked into that specific area although we have done other audits with respect to the NAS plan that will impact on air traffic control, but not necessarily as to the amount or number of controllers that will be hired or in existence.

Senator ANDREWS. Well, this is a very critical area. I think everyone in this country is concerned about air safety. This committee is concerned about the in again, out again, up again, down again, follow up the numbers kind of operation we have had for the last 2 years on this issue. We have been looking at 14,306. We were supposed to have those on board 2 years ago. We do not have them yet. We should be at about 14,800 right now.

There are interminable delays. There is a suspicion of a compromise of safety and I would think, Mr. Inspector General, that with your resources and the fact that your budget is higher than all of the other budgets within this Department as far as an increase, you ought to have the resources to find out for us why we are playing this magic with numbers in an area of critical importance to this country.

Mr. GENOVESE. Mr. Chairman, we certainly can respond to that request and start an audit in that area.

Senator ANDREWS. We would appreciate it very much if you could shed some more light on this key area than we have been able to get from the Secretary so far, and with your figures it would guide us in the questions we have for the FAA when they come up here.

[CLERK'S NOTE.—The attached analysis was provided by request.]

LETTER FROM JOSEPH J. GENOVESE, ACTING DEPUTY INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

The Honorable Mark Andrews
Chairman, Subcommittee on Transportation
Committee on Appropriations
United States Senate
Washington, D.C. 20510

MAY 2 1986

Dear Mr. Chairman:

During the Inspector General Budget Hearings of February 26, 1986, you requested that we review the reporting of air traffic controller statistics. Our review was directed primarily to (a) the accuracy of Federal Aviation Administration (FAA) statistics pertaining to the controller workforce, (b) how FAA intends to meet the authorized staffing levels, and (c) the adequacy of reporting procedures. Enclosed is a copy of our report.

The results of our review disclosed that FAA can adequately support the reported figure of 14,028 controllers as of March 31, 1986. However, FAA could not provide adequate documentation for controller statistics reported prior to January 1986. Also, FAA needs to ensure that the regions have developed viable detailed plans so the controller goals and end-of-year ceilings can be attained. In addition, the development of written policies and procedures would resolve some of the confusion regarding reporting controller workforce statistics.

The results of our review were discussed with FAA officials. Copies of this report will be provided to them for appropriate action.

If I can be of further assistance, please contact me on 426-8584.

Sincerely,

Joseph J. Genovese
Joseph J. Genovese
Acting Deputy Inspector General

Enclosure

FEDERAL AVIATION ADMINISTRATION REPORT ON REVIEW OF AIR TRAFFIC CONTROLLER STATISTICS

I. INTRODUCTION AND SCOPE

During the Inspector General Budget Hearings of February 26, 1986, Senator Mark Andrews, Chairman of the Subcommittee on Transportation, Committee on Appropriations, requested that the Office of Inspector General conduct a review of the reporting of air traffic controller statistics. Our review was directed primarily to (a) the accuracy of Federal Aviation Administration (FAA) statistics pertaining to the controller workforce, (b) how FAA intends to meet the authorized staffing levels, and (c) the adequacy of reporting procedures.

During the course of the review, we met with Department of Transportation and FAA officials to discuss reporting of controller statistics, staffing goals, and standards. In addition, we reviewed documentation supporting FAA statistics as of March 31, 1986, and met with responsible FAA officials in the Eastern, Central, and Western-Pacific Regions to determine how they intend to meet the authorized staffing levels.

II. BACKGROUND

The air traffic control system is operated with fewer controllers overall and less full performance level controllers than before the strike while traffic has returned to prestrike levels. Since the air traffic controllers strike in August 1981, FAA has been in the process of rebuilding the system to be as effective and safe as prior to the strike. At the time of the strike, FAA employed 16,200 controllers. To rebuild the System, FAA established specific goals and milestone dates as to when the goals would be achieved.

For Fiscal Year (FY) 1985, FAA's goal was to have 14,306 controllers on board at the end of the fiscal year. As of September 30, 1985, FAA reported 13,998 on board, but indicated they met their goal on February 28, 1985. For FY 1986, Departmental and FAA officials testified that by September 30, 1986, FAA will have 14,480 controllers on board.

III. RESULTS OF REVIEW

The results of our review disclosed that FAA can adequately support the reported figure of 14,028 controllers as of March 31, 1986, although controller statistics reported prior to January 1986 are not as reliable. Also, FAA needs to ensure that the regions have developed viable detailed plans so the controller goals and end-of-year ceilings can be attained. In addition, the development of written policies and procedures would resolve some of the confusion regarding reporting controller workforce statistics.

A. Accuracy of Statistics

FAA reported that there were 14,028 employees in the controller workforce as of March 31, 1986, including 8,770 full performance level controllers. This, in comparison to 13,998 controllers on board at the beginning of FY 1986, represents a net increase of 30 controllers for the first half of the fiscal year. (See Exhibits A and B.)

On January 16, 1986, a Memorandum of Understanding was developed in FAA between the Associate Administrators for Human Resource Management and Air Traffic. This memorandum outlines operating procedures for the development and dissemination of controller workforce information. All workforce information will be obtained from the Personnel Management Information System (PMIS) data base and controller statistics will be coordinated with the Human Resource Information Systems Division for accuracy and consistency.

We reviewed the accuracy of the March 31 statistic of 14,028 controllers by obtaining from human resource management a detailed personnel listing of those employees comprising the controller workforce. On a selective basis, we reviewed approximately 200 official personnel files in the Eastern, Central, and Western-Pacific Regions to determine whether the employee was correctly reported as a controller in accordance with FAA classifications. We generally found that the names were supported by appropriate documents with the following exceptions:

-- On November 27, 1985, an Oklahoma City accounting technician was given a waiver since she was over the maximum age and was approved for the flight service station option only. On December 11, 1985, the person was confirmed to an appointment at the New York Air Traffic Control Center. The Request for Personnel Action (SF-52) transferred the person directly from an accounting technician to an air traffic control specialist in the New York Center. The employee's official personnel folder did not show that this person attended the FAA Academy in Oklahoma City, Oklahoma.

-- On February 15, 1986, a full performance level employee resigned, but as of April 1, 1986, the personnel action had not been processed.

-- On August 5, 1985, a controller was detailed for 1 year from the workforce to an employee relations specialist position, but was counted in the controller workforce statistics.

Prior to January 1986, there were two sources of controller statistics in FAA. Regional Human Resource Management Division personnel maintained the official personnel records and controlled data pertaining to the PMIS. In addition, air traffic officials maintained an informal system of records based on statistics reported by the regional Air Traffic Divisions. As a result, the net gains and losses for FY 1986 vary between air traffic and PMIS.

FAA attributed part of the difference to gains and losses from the PMIS being based on the effective date of the personnel action. They indicated the figures fluctuated from month to month because of the occasional delays in processing actions. Beginning in March, the statistics from the PMIS will be based on the processing date to keep the figures more consistent. This should facilitate the reconciliation of air traffic and PMIS statistics. However, it may create additional problems since employees could be reported as controllers before they perform controller functions, or retire and still be counted until the personnel action is processed. We believe that FAA should ensure that the processing date is not significantly different from the effective date when transferring employees from support positions into the controller workforce.

B. Funding and Staffing Limitations

For the remaining 6 months of FY 1986 FAA needs to attain a net increase of 452 controllers. This increase in the controller workforce must be accomplished at the same time that FAA must reduce total air traffic employees by 256 to reach the end-of-year FAA goal. (See Exhibit C.) FAA budget officials advised us that one of the primary reasons FAA is in this position is because the 1986 budget for air traffic was based on the assumption that there would be certain reductions in the air traffic noncontroller workforce that have not materialized.

The President's budget submission for FY 1986 requested $1,186,411,000 and 25,172 positions to carry out the Air Traffic Program. The Air Traffic Program includes in addition to the controller workforce; managers, supervisors, support personnel, and flight service station personnel. At present, the Air Traffic Program is being operated with $1,209,514,000 related to an end-of-year employment goal of 24,068 including 14,480 controllers.

On March 3, 1986, the Associate Administrator for Air Traffic advised the Regional and Center Directors that the Administrator asked that each region be assigned specific controller workforce goals. The goals were developed in accordance with 1986 staffing standards and current FY 1986 funding. In addition, the staffing goals were discussed on March 10 at an air traffic team meeting. Each region was requested to submit a plan for accomplishing the controller workforce objectives. FAA Headquarters would review the plans and monitor regional progress. Actions proposed by the regions to reach the controller goals and stay within the end-of-year air traffic ceiling include the following:

(1) Hire additional Academy trainees.
(2) Convert staff positions to controller positions.
(3) Postpone filling supervisory positions.
(4) Contract out automation and training functions and transfer qualified personnel to the controller workforce while initiating a reduction in force for those who do not qualify.
(5) Transfer flight service station employees to Academy slots.
(6) Eliminate area supervisor positions at Level I and II Visual Flight Rules towers.

As part of our review we analyzed the submissions for the Eastern, Central, and Western-Pacific Regions and discussed with responsible regional personnel their plans for meeting the controller workforce goals. Our analysis of the three regions showed that in total by the end of the fiscal year, the regions need to attain an increase of 176 controllers while reducing by 225 the air traffic end-of-year ceiling.

	CONTROLLER WORKFORCE			AIR TRAFFIC EMPLOYEES		
	GOAL 9/30/86	ACTUAL 3/31/86	DIFFERENCE	GOAL 9/30/86	ACTUAL 3/31/86	DIFFERENCE
Eastern	1,895	1,844	51	3,036	3,150	(114)
Central	710	711	(1)	1,278	1,312	(34)
Western	1,944	1,818	126	3,041	3,118	(77)
Subtotal	4,549	4,373	176	7,355	7,580	(225)
Others	9,931	9,655	276	16,713	16,744	(31)
Total	14,480	14,028	452	24,068	24,324	(256)

a. Eastern

~~The regional plan submitted to FAA Headquarters on March 27, 1986, advised that they needed more controllers than allocated by FAA Headquarters to continue with present Air Traffic Programs and meet other additional needs.~~ However, the plan did not detail how the region would attain the present Headquarters assigned goal of 1,895 controllers by September 30, 1986. ~~There were no statistics or projection of new hires, transfers, retirements, or other proposed actions.~~

On April 2, 1986 we discussed with regional personnel how the region plans to meet their allocation. The two primary methods mentioned to increase the controller workforce were to hire 60 GS-3/4 flight data assistants with a 303 classification series and to fill 57 Academy slots with trainees. According to Headquarters air traffic personnel, the 60 data assistants will not count toward the controller goal because they are not part of the 2154 air traffic assistant classification. The 60 positions are shown as part time in the region's plan. It is possible that these employees will be converted eventually to air traffic assistant positions. In addition, we believe the number of Academy slots may need to be increased because the attrition rate has not been adequately considered. ~~Therefore, additional monitoring is needed to ensure that the region's plan contains sufficient details and is viable.~~

b. Central

The FAA Central Region's plan projected that both yearend goals for controller workforce and overall air traffic personnel could be achieved. Further, the plan indicated that the controller workforce goal of 710 could be achieved without hiring additional Academy trainees in the last quarter of FY 1986. However, in order to reach the controller workforce goal without hiring new trainees, the plan proposed drastic reductions in overhead staffing. ~~Our review of~~ these overhead positions and assigned personnel ~~showed that the plan could not be achieved because some of the personnel have~~ not maintained operational currency on radar controls and do not have a current medical certificate. Accordingly, we estimate that the Central Region will need to recruit approximately 15 employees for the training Academy during the last quarter of the fiscal year.

c. Western-Pacific

The March 27, 1986 plan submitted by the Western-Pacific Region was an attempt to comply with the guidelines established in the March 10 meeting with air traffic personnel. Western-Pacific officials could not develop a plan to achieve their allocated goal of 1,944 controllers and stay within the funding limitations. However, regional air traffic officials believe this allocation is too high based on the controller productivity goals established by the region. The region is developing an employment plan to reflect a controller workforce of 1,849 employees or 95 positions less than allocated by the staffing standards.

To satisfy the March 3, 1986 request, a basic plan was developed to transfer 113 staff and administrative positions to the controller workforce. Two alternatives were developed to transfer these positions and assure the region can meet their management and operational requirements. Although the second alternative is preferred by the region, they reported that they will exceed their end-of-year employment goal of 3,041.

Alternative No. 1

To stay within the end-of-year employment goal of 3,041 and achieve a controller workforce of 1,944, the region will implement adverse actions and reduction-in-force procedures. Accomplishment of this alternative is based on the training and automation contracts being awarded by July 1, 1986.

Alternative No. 2

The region will transfer 113 former controllers from selected overhead positions to the controller workforce to achieve the 1,944 goal. Actual conversion would only occur for those positions not affected by an adverse action, reduction in force, or discontinued service, except for those positions eliminated by contract requirements. While the positions requiring such action would be abolished, they will only be vacated through attrition.

The plans submitted by the regions to reach the controller goals and stay within the end-of-year air traffic ceilings represent significant actions. These proposed actions must be closely monitored by Air Traffic Headquarters to ensure that they are properly implemented.

C. Reporting Criteria

There has also been confusion over the definition of what employees should be counted as part of the controller workforce. Various terms have been used, and therefore statistics vary. Some of the terms used included controller, operational controllers, full performance level controllers, and radar controllers. In addition, we found that there appears to be some confusion among FAA employees as well. We believe written policy and procedures could resolve some of these problems and standardize the gathering, monitoring, and reporting of controller statistics.

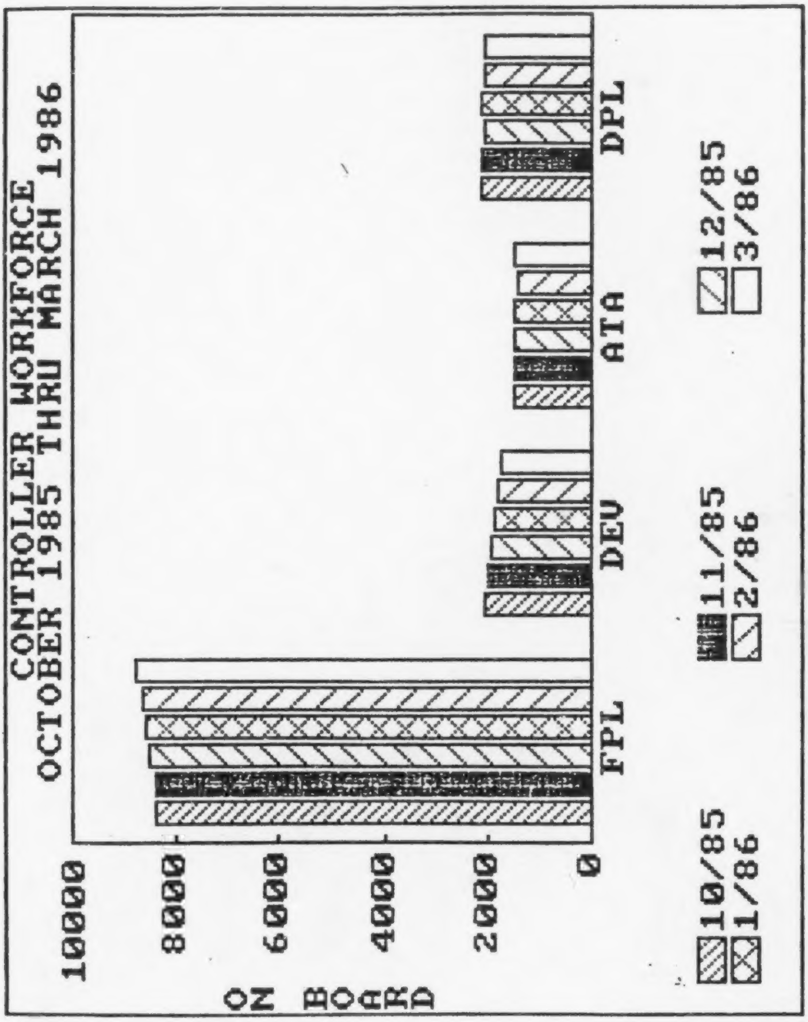
Headquarters air traffic personnel informed us that the following positions are included in the definition of the controller workforce and count toward the goal of 14,480. All positions are classified in the 2152 series, except air traffic assistants who are classified 2154.

(1) full performance level controllers,
(2) developmental controllers,
(3) air traffic assistants,
(4) developmental pipeline (Academy trainees, co-ops, predevelopmentals, and other employees attempting to achieve operational controller status), and
(5) reemployed annuitants if working full time.

Air traffic employees not included in the controller workforce include flight service station personnel, supervisors, managers, support personnel, and traffic management coordinators.

We believe FAA needs to define the various categories that comprise the controller workforce so that all interested parties would have a common base for evaluating FAA accomplishments in improving the controller workforce. At present it can be argued that certain categories of air traffic employees should or should not be included in the definition of the controller workforce. For example, all Academy trainees are included in the controller workforce even though a high percentage will fail and never control traffic or they may become a part of the flight service station option. Also, FAA does not count first line supervisors as part of the controller workforce, although they may spend a portion of their time controlling traffic.

EXHIBIT A



FPL - Full Performance Level Controller
DEV - Developmental
ATA - Air Traffic Assistants
DPL - Developmental Pipeline

EXHIBIT B

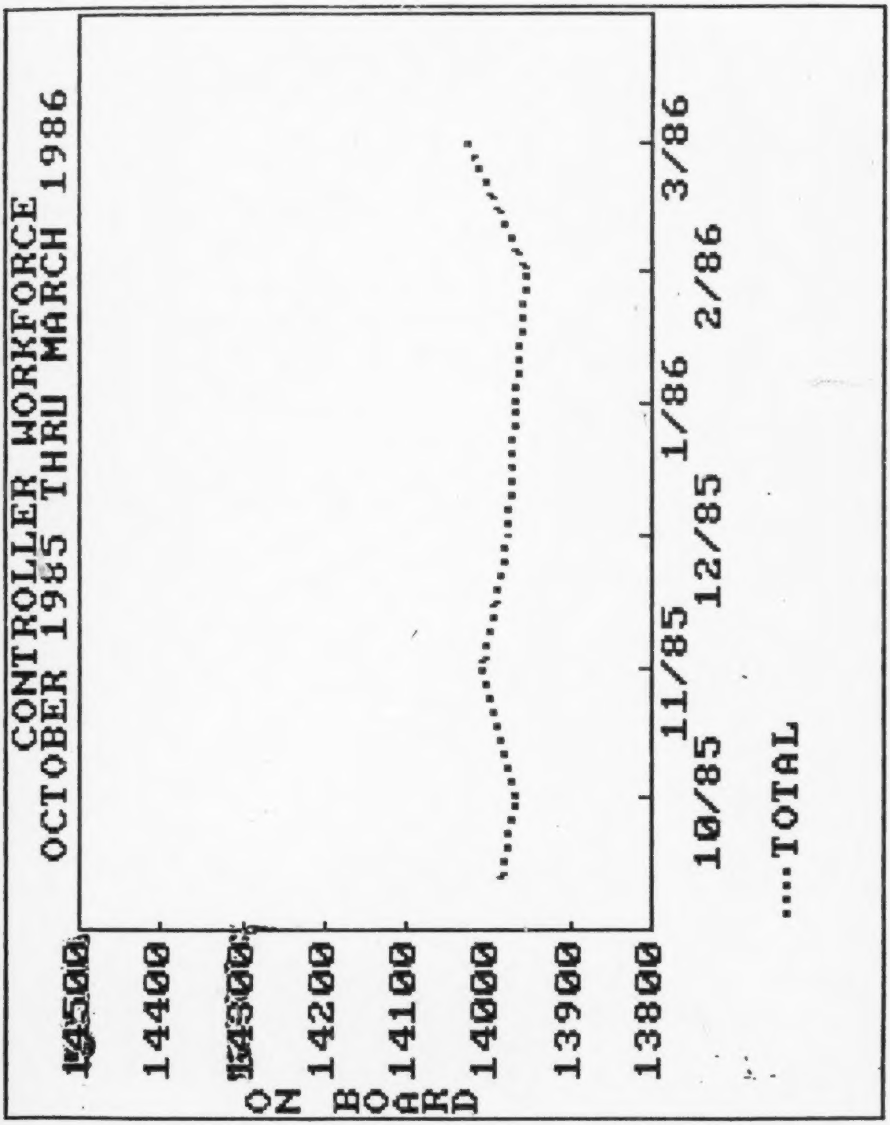

CONTROLLER WORKFORCE
OCTOBER 1985 THRU MARCH 1986
ON BOARD
14500
14400
14300
14200
14100
14000
13900
13800
10/85
11/85
12/85
1/86
2/86
3/86
....TOTAL

EXHIBIT C

END-OF-YEAR GOALS AND ON BOARD EMPLOYMENT

	Controller Workforce			Air Traffic Employees		
Region	Goal 09/30/86	Actual 03/31/86	Difference	Goal 09/30/86	Actual 03/31/86	Difference
Alaskan	265	244	+21	580	577	+3
Central	710	711	-1	1278	1312	-34
Eastern	1895	1844	+51	3036	3150	-114
Great Lakes	2662	2674	-12	4194	4273	-79
New England	610	571	+39	951	951	0
Northwest Mt.	1390	1274	+116	2295	2239	+56
Southern	3029	2880	+149	4818	4792	+26
Southwest	1975	2012	-37	3218	3318	-100
Western-Pacific	1944	1818	+126	3041	3118	-77
NATCOM	0	0	0	83	65	+18
FAATC	0	0	0	233	217	+16
Washington Hqs.	0	0	0	303	263	+40
ATO-400	0	0	0	26	36	-10
European	0	0	0	5	6	-1
AT-64	0	0	0	7	7	0
Total	14480	14028	+452	24068	24324	-256

DEFENSE CONTRACT AUDIT AGENCY

On another matter, the Defense Contract Audit Agency [DCAA], the subcommittee is informed, is backlogged because of increased emphasis within the Defense Department on procurement irregularities. How does DCAA's backlog affect the Department's audits, specifically those associated with major programs like the National Air Space System plan?

Mr. GENOVESE. The DCAA has had a backlog. They are aware of it, and we are also aware of it. They are working to reduce that backlog. As far as the Department's audit needs are concerned, we have been able, on a priority basis, to get the audits that we wanted within appropriate timeframes.

However, overall there is a backlog and we have had to adjust. We have had meetings with the Defense Contract Audit Agency. They have a new director, and we have been assured that the overall problem of the backlog will be corrected.

ANTITRUST INVESTIGATIONS

Senator ANDREWS. The budget justification, we notice, states that investigations into antitrust violations in connection with highway construction projects resulted in 47 indictments and 45 convictions during fiscal year 1985. This compares to 89 and 67 in 1984 and 92 and 74 in fiscal year 1983.

Why have you shown such a sizeable decrease in indictments and convictions during fiscal year 1985? Does this indicate that the program is approaching the point of diminishing returns, that you may just be scraping the bottom of the barrel, so to speak?

Mr. GENOVESE. No; it does not indicate that, Mr. Chairman. It indicates that antitrust investigations take a long time. They are very complex and time-consuming. We have no control over the number of indictments and convictions that are levied.

In 1985, 41 percent of our effort was in the bid-rigging area. In 1986 and 1987 we project a slight decrease. We do have activity in 34 States, and grand juries have been established in 17 of those States. The results of all these investigations will not come to fruition for a year or so. Therefore, we expect the number of indictments and convictions to increase.

We have been trying to analyze the trends. We cannot identify why some years it goes up and some years down. I know that you have indicated that there is a decreasing trend. We had a very significant effort in 1983, and some of that effort has come to fruition in 1984. We think that in the future there is going to be a certain amount of leveling off.

There will always be some bid rigging activity. It seems that bid rigging has cropped up consistently over the years. We are somewhat disturbed by the fact that in some States where investigations were completed, bid rigging has recurred. We have made some analysis, talked to the Justice Department and may have to go back in to investigate those States again.

Senator ANDREWS. Well, to what extent do you suspect recurrences of bid rigging activity in States where you have completed investigations and had indictments and convictions?

Mr. GENOVESE. Would you repeat the last part of that question, please?

Senator ANDREWS. To what extent do you think you are going to have recurrences? In other words, you have been in there. There have been some indictments. You have had some convictions. You come out. Have you really stopped the practice? What steps are you taking to prevent it?

Mr. GENOVESE. We have deterred bid rigging, but it is never going to be stopped completely. As far as the recurrence is concerned, we have indications of recurrence in two States where cases have been closed. The analyses indicate that it may be occurring again. The Justice Department is interested in analyzing it with us. As to how much recurrence exists, or as to how much of a deterrent effect we have played, I think we will have to wait and see. I really do not have an answer.

Senator ANDREWS. In last year's hearing, Inspector General Welsch cited several efforts undertaken to, as he put it, institutionalize detection of bid rigging in States where you have completed investigations. What efforts are currently under way in this area?

Mr. GENOVESE. The Office of the Inspector General has given training courses designed to train the States to identify some of the situations which may occur in bid rigging.

The FHWA has developed a statistical analysis system that is going to be made available to the States. We think these efforts are definitely going to be very helpful as a deterrent effect.

FHWA has computer models that will be made available to the States, and we are holding training courses. To that extent we are trying to institutionalize the detection of bid rigging to serve as a preventative activity as opposed to going in after it has been done.

DISADVANTAGED BUSINESS ENTERPRISES

Senator ANDREWS. In the field of disadvantaged business enterprises [DBE], does there appear to be any regional or geographic pattern to DBE fraud?

Mr. GENOVESE. No; there does not seem to be a regional pattern right now, Mr. Chairman. We have investigations going in all of our regional offices. We have 50 active cases, right now, and they are spread out throughout the country. At this time we have no regional pattern.

Senator ANDREWS. Are States with relatively small minority populations likely to be more susceptible through necessity to false front operations?

Mr. GENOVESE. I cannot answer that one definitely, but it would seem to me that in view of the 10 percent there may be some incentive on the part of some contractors perhaps to stretch it a little. Your assumption may be correct but I have no basis for saying that it is true.

SUBMITTED QUESTIONS

Senator ANDREWS. We have a number of questions that I am going to submit for the record.

Senator Chiles has a number of questions for the record. Other Members may well have questions they would like for the record.

We appreciate your coming here this morning. We appreciate your candor and good luck to you in the job.

Mr. GENOVESE. Thank you very much, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

UNOBLIGATED BALANCE

SENATOR ANDREWS: The Inspector General Salary and Expense Account has lapsed $1.4 million and $1.248 million, respectively in 1984 and 1985. Explain the reasons and project the likely lapse in this fiscal year. What are obligations to date?

ANSWER: The major reasons for the lapse in 1984 was a lower than anticipated staffing level. The balance of the lapse for 1984 occurred in the "Other Services" area where costs were not as great as anticipated.

For 1985 the major area of lapse was in the Other Services area, specifically, contract audit. Other areas of shortfall were personal services and equipment. Lapses occurred in contract audit because billings which were less than anticipated due to backlogs and to implementation of OMB Circular A-102-P which makes recipients of Federal assistance responsible for obtaining annual financial and compliance audits on an entitywide basis.

Inasmuch as the funds authorized OIG in 1986 are $239,000 less than our 1985 actual obligations and we will have two merit pay payouts for 1986, we feel it will be an extremely tight year and our lapse will be low.

We have a 34 percent obligation rate through 33 percent of the year.

DEFENSE CONTRACT AUDIT AGENCY

SENATOR ANDREWS: When will this backlog be corrected by DCAA? What reduction in Office of Inspector General reimbursements for audits was made in Fiscal Year 1985? What is estimated for this year and Fiscal Year 1987?

ANSWER: We do not know when this backlog will be eliminated. However, the new Director of DCAA is aware of the large backlog that exists in the incurred cost audit area and has requested his staff to devote more resources to reducing the backlog. In the event DCAA could eliminate their backlog, we would not have the funds necessary to reimburse them for the work performed. There was a $485,000 shortfall in the contract audit area for 1985. Actual obligations for Fiscal Year 1985 were $1,359,000. The budget for 1986 and 1987 is $1,342,000 and $1,616,000, respectively.

CONRAIL

SENATOR ANDREWS: The Washington Post reported on February 4, that Rep. Michael Oxley (Ohio) alleged in a January 29th letter to you that Stephen Berger, Chairman of the U.S. Railway Association (USRA), may have compromised that agency's impartiality by holding positions within organizations such as the Long Island Railroad and the Port Authority of New York and New Jersey that have a stake in the future of Conrail. Although the Senate has approved the sale of Conrail to Norfolk Southern, there is considerable question regarding House action on the Conrail sale issue. Several issues that involve the USRA must be resolved before the disposition of Conrail is complete. Would you please comment on any findings that you have made on this alleged conflict of interest on the part of Mr. Berger.

ANSWER: While an initial review has been completed, it would be premature to note findings until we are satisfied that each determination is properly and adequately supported. We would anticipate that the report will be issued in the near future.

GRAMM-RUDMAN-HOLLINGS IMPACT

SENATOR ANDREWS: Your budget justification states that the major problem facing your agency will involve the adjustments necessary to manage within the constraints imposed by the Gramm-Rudman-Hollings legislation. What adjustments do you intend to make in Fiscal Year 1986 in order to achieve the required cuts?

ANSWER: In order to accommodate the Gramm-Rudman-Hollings reduction, we have had to curtail support activities, such as permanent change of station moves, training, equipment and furniture buys, space alterations, and leases. In addition, we have coordinated with the Defense Contract Audit Agency to reduce the level of contract audit support previously planned for Fiscal Year 1986.

SENATOR ANDREWS: How will ongoing audits and investigations be affected?

ANSWER: We have reduced support activities, in order to minimize the impact on audit and investigative activities.

SENATOR ANDREWS: What options do you have to absorb the presently required or any future reductions required by Gramm-Rudman-Hollings?

ANSWER: Several expenses have increased in 1987; e.g., SLUC by $305,000 and merit pay increases and within grades by $260,000. These increased expenses would negatively impact a funding level which would not support even our present level of effort. Inasmuch as support activities have already been drastically reduced and personnel pay constitutes 76 percent of the OIG budget, we would have no choice but to cut personnel.

SENATOR ANDREWS: Are personnel furloughs or reductions-in-force under consideration, as they are elsewhere in the Department?

ANSWER: At this time, any personnel reductions would be handled by attrition.

BID RIGGING

SENATOR ANDREWS: Your budget justification states that the most significant investigative efforts continue to be the detection and prevention of bid rigging activity in DOT-funded construction programs. What is the status of your bid rigging efforts?

ANSWER: Investigations into Antitrust violations in connection with highway construction projects resulted in 47 indictments, 45 convictions, $2,509,100 in fines, and 32.2 years in sentences during FY 1985. This consumed 41 percent of our investigative efforts. During the first 4 months of FY 1986, bid rigging investigations resulted in 33 indictments, 11 convictions, $703,774 in fines and restitutions, and 2.5 years in sentences. This four-month period has seen a 138 percent increase in Antitrust indictments over last year's figures during the same period. We expect to expend 37 percent of our investigative resources in Antitrust investigations in FY 1986 and FY 1987.

DISADVANTAGED BUSINESS ENTERPRISES (DBE's)

SENATOR ANDREWS: You state that there are widespread indications of abuses in the DBE program established in the Surface Transportation Assistance Act of 1982. This Act mandated that 10 percent of the highway and transit funds authorized by the law be awarded to DBE firms. What sources of fraud in this program are your investigations uncovering?

ANSWER: There are many variations, but there are three main schemes. Prime contractors create "front" businesses which are neither owned nor managed by eligible persons. The second scheme involves a certified DBE which acts as a conduit, passthrough, or broker to artificially inflate the percentage of work supposedly performed by a DBE firm. The third scheme involves a prime contractor falsely reporting that a legitimate, reputable DBE will be, or is, performing work without the DBE's knowledge or consent.

SENATOR ANDREWS: How many investigations are currently ongoing in this area?

ANSWER: As of February 13, 1986, we had 50 active investigations involving DBE-related criminal offenses.

SENATOR ANDREWS: How many investigations have been closed? Of this number, how many resulted in prosecutions?

ANSWER: Of the 47 DBE related investigations we have closed to date, none have resulted in a prosecution. However, it should be noted that we have had 34 indictments and three convictions in connection with currently active investigations. Normally, investigations are closed which do not have prosecutive potential whereas those with prosecutive potential remain open until final judicial action is taken.

SENATOR ANDREWS: Does there appear to be any regional or geographic pattern to DBE fraud? Are states with relatively small minority populations likely to be more susceptible to "false front" operations?

ANSWER: There is no discernible geographic pattern. We have open investigations in 25 states, covering all areas of the country. There is no apparent relationship between the demographic composition of a state and the incidence of DBE-related offenses.

INVESTIGATIVE ACTIVITY

SENATOR ANDREWS: Last year the Inspector General stated that field work and data analysis from a nationwide investigative survey of DOT construction contracts over $3 million was in its final stages. What were the results of this survey? Is there evidence of abuses in construction projects other than for highway work?

ANSWER: The project has been completed. We found no evidence through our analysis of a national conspiracy. We were able to select 70 contracts out of our universe which we believed merited further scrutiny. Of those 70, 57 were FHWA, 7 FRA, and 6 were from UMTA. Of the contractors involved, 22 were found to have previously been indicted or are presently under investigation. There appears to be no evidence of abuses in construction projects other than for highway work in this analysis, but we have found abuse in other construction projects, for example, FAA Airport Development Assistance Program/Airport Improvement Program.

ACCOMPLISHMENTS

SENATOR ANDREWS: Your budget justification states that for FY 1985, audit recoveries, fines, penalties and other investigative cost avoidance totaled $911 million - 34 times the amount spent. It further states that savings of this magnitude should continue to be achieved in the future. FY 1984 savings were reported last year by Inspector General Welsch in a hearing before this subcommittee to be $418 million, a substantial decrease from the $921 million reported for FY 1983. During that hearing, Mr. Welsch stated that the large decrease in FY 1984 was attributable to the fact that one major report in FY 1983 was responsible for $370 million in savings, and that the FY 1984 level was reasonable as far as the productivity of the staff. Given these facts, why was there such a dramatic increase in savings during FY 1985?

ANSWER: Of the $911 million in savings for FY 1985, about $865 million came from Other Dollar Benefits. Other Dollar Benefit savings, for the most part, are derived from our internal audit reports. We issued more internal audit reports in FY 1985 (293) versus FY 1984 (224) and FY 1983 (229). In addition, about $273 million of the savings in FY 1985 came from FY 1984 reports resolved in FY 1985, while $592 million came from FY 1985 reports issued and resolved in FY 1985. It appears that we did a better job in obtaining resolution of recommendations in reports issued in FY 1985.

SENATOR ANDREWS: Is this $911 million in savings once again inflated by large savings resulting from one project?

ANSWER: The largest two audits resulted in $136 million and $117 million in savings.

The number of reports with savings by administration that apply to the $865 million in measurable audit savings are as follows:

Administration	No of Reports	($ in millions) Savings
Federal Aviation	19	$192.3
Federal Highway	24	431.9
Maritime	1	.2
National Highway and Traffic Safety	3	2.2
Office of the Secretary	4	4.3
St. Lawrence Seaway	1	-0-
Urban Mass Transit	12	214.9
United States Coast Guard	10	18.8
Total	74	$864.6

The remainder of the savings represented costs questioned and investigative recoveries and costs avoided.

SENATOR ANDREWS: If so, why is it stated that savings of this magnitude should continue to be achieved in future years?

ANSWER: The magnitude of our savings is hard to predict; however, we should continue to realize significant annual savings, amounts that are far in excess of the cost of our operation.

DRUG WAR

SENATOR ANDREWS: The Congress has placed increased resources in the hands of Federal agencies involved in drug interdiction. The Coast Guard capital and operations account, in fact, was augmented last year by both the Defense authorization and appropriation. What review has the Inspector General conducted on Coast Guard use of resources to maximize drug interdiction?

ANSWER: The Office of Inspector General made a review of the Coast Guard's Enforcement of Laws and Treaties Program, which included drug interdiction operations. Our audit report was issued on November 30, 1984, Report No. AV-CG-5-005. The Coast Guard's methods of coordinating and performing law enforcement operations needed to be reevaluated to meet the increasing demands for enforcement coverage. Drug interdiction operations were decentralized, with little control being exercised at the Headquarters and district levels. Operating units, such as groups, bases, and stations, generally performed whatever drug enforcement they deemed necessary. Thus, varying degrees of emphasis were placed on drug enforcement among these units and, sometimes, interdiction operations were ineffective or almost nonexistent. In response to our report, the Coast Guard officials indicated that they had expanded and implemented more forceful boarding policies, taken measures to improve operational security and mission confidentiality, and provided increased law enforcement training. Also, more large vessels will be available for interdiction as the new 270 foot cutters come on line.

SENATOR ANDREWS: Has the Inspector General reviewed OMB's analyses that show a diminishing cost-benefit ratio between these capital investments and the flow of illegal drugs? How can Federal agencies have a more effective impact in the drug war?

ANSWER: We have not reviewed the OMB analyses to which you refer. We have reviewed studies prepared by the National Narcotics Intelligence Consumers Committee and the Drug Enforcement Administration which indicate that, while more resources have been brought to bear, the tide of drugs entering the country has not been significantly abated. Also, there are indications that domestic production of marijuana has increased. Concerning how Federal agencies can have a greater impact on drug traffic, the most important area governing interdiction success appears to be intelligence data. It appears that the quantity and quality of intelligence data on such traffic have a direct bearing on how efficient and effective the interdiction efforts are.

FEDERAL AVIATION ADMINISTRATION (FAA) AIRCRAFT

SENATOR ANDREWS: The FY 1986 FAA facilities and equipment appropriations assumed possible savings based on a service life extension of the current FAA fleet, versus the Turboprop acquisition. Please summarize the Inspector General's latest conclusions of this issue.

ANSWER: It is still our position that the replacement of all flight inspection aircraft is not the most cost effective alternative. FAA has not considered all costs and alternatives (i.e., mixed fleet of upgraded and new aircraft) which is necessary before determining the most cost effective fleet conversion plan. We feel that FAA should extend the life of the Sabreliner 80 fleet and make a further review of requirements and safety issues before replacing the entire flight inspection fleet.

In March 1986, we plan an audit followup to determine the current program status and the implementation of prior audit recommendations.

NATIONAL AIRSPACE SYSTEM (NAS)

SENATOR ANDREWS: Provide an update on NAS plan oversight. What projects are underway and scheduled for FY 1987? How many workyears are dedicated to NAS plan oversight?

ANSWER: The following projects are underway or scheduled for FY 1986.

- Award Fee Process - Martin Marietta
- Relocation Costs of Martin Marietta Employees
- Major Modifications to Systems Engineering and Integration Contract
- Airport Surveillance Radar Replacement
- Dedicated Repair Contracts
- Mode S
- Towers and TRACONS
- Human Factors Engineering
- Weather Message Switching Center Replacement
- Communications Systems Development and Advanced Automation
- Enroute Automated Radar Tracking System
- Aviation Weather Observation System
- Central Weather Processor

We estimate that 12 years of staff work will be expended on NAS plan oversight during Fiscal Year 1986. We have not as yet developed our specific work plans for Fiscal Year 1987.

SENATOR ANDREWS: What are the preliminary conclusions of the three audits of the Systems Engineering and Integration Contract?

ANSWER: Award Fee - Our audit of the award fee process is nearing completion. We evaluated the effectiveness of FAA's procedures for monitoring and evaluating contractor performance and determining the award fee. FAA awards a percentage of a basic award fee pool to the contractor every 6 months. The amount not awarded is considered a carryover and according to the contract, up to 80 percent of it can be awarded to the contractor at the end of the next period. FAA needs to strengthen procedures for awarding the carryover fee. We found that for the first two award periods FAA paid fees greater than the performance ratings. The audit also disclosed that improvements are needed in FAA's performance evaluation process.

Relocation Costs - In our audit of selected relocation costs we are reviewing (i) rental and mortgage assistance payments and (ii) miscellaneous relocation expenses for Calendar Years 1984 and 1985. We are evaluating the allowability of these costs and the contractor's system of internal controls.

We have identified 65 employees who have received approximately $268,000 in rental assistance who rented their prior residence and we will be questioning these payments.

Federal regulations permit contractor employees who relocate to receive miscellaneous expenses incident to relocation such as automobile registration, disconnecting and connecting household appliances and cutting and fitting of rugs and draperies. We have tentatively identified claims for expenses that we believe are not allowable under the regulations. Our audit work is not yet completed.

Contract Modification - The audit of contract modification and cost growth began in January 1986. This audit will evaluate major modifications to the SEI contract to evaluate FAA's effectiveness in negotiating their costs. The audit should result in recommandations to prevent or minimize future contract cost growth.

	Estimated Cost	Award Fee
Basic Contract (a)	$610,791,973	$73,295,057
Modifications	87,717,233	10,525,191
Total	$698,509,206	$83,820,248

(a) Assuming FAA will exercise options for 10-year period of performance.

Three additional modifications have been issued but FAA and the contractor have not agreed on the amount of increase in estimated cost or award fee.

NEXRAD

SENATOR ANDREWS: Summarize the Inspector General's participation in the Next Generation Radar project. What conclusions have been reached regarding FAA's Central Weather Processor and the Automated Weather Observation System (AWOS)?

ANSWER: The Department of Transportation, OIG is a member of a joint PCIE project which was initiated to review Federal weather surveillance and dissemination systems. The OIGs of Departments of Commerce and Defense are also members of this joint effort. The DOT Inspector General chairs this effort. The scope of this project involves evaluating selected major existing and proposed Federal weather systems, including selected aspects of the Next Generation Weather Radar (NEXRAD). The Department of Transportation OIG is reviewing the NEXRAD "blue-ribbon" panel's proceedings, as explained below. We have issued draft reports on two weather systems being developed by Federal Aviation Administration (FAA)--the Central Weather Processor (CWP) and Automated Weather Observation System (AWOS)--which also are summarized below.

NEXRAD

During the early stages of our PCIE review, National Oceanic and Atmospheric Administration (NOAA) had asked the National Bureau of Standards to chair a "blue-ribbon" panel of independent radar experts to assist in identifying (1) the type of weather radar required and (2) minimum weather radar system needed to satisfy the requirements of the three involved Federal agencies--Departments of Commerce, Defense, and Transportation. The PCIE staff met with the NEXRAD panel's chairman to ensure that the PCIE staff's concerns were included in the panel's review, namely the adequacy of the NEXRAD requirements initiative, concept study, and cost/benefit and alternatives analysis.

Our PCIE review of the NEXRAD panel's work was not considered an audit. However, we were satisfied (1) that all of the PCIE staff's concerns were addressed by the NEXRAD panel, and (2) with the methodology the NEXRAD panel followed in executing its charter.

Central Weather Processor (CWP)

Our review disclosed that FAA is independently developing its own prototype weather information system, the CWP, to improve the quality and timeliness of weather information to National Airspace System (NAS) users. However, the CWP requirements for interfacing with NEXRAD and the NAS Plan Advanced Automation System (AAS) had not been fully defined or identified even though $30 million--including $18 million for research and development (R&D)--had already been spent on attempts to develop this system.

We made several recommendations with the aim of encouraging FAA to work jointly with Department of Commerce to avoid duplication while still ensuring that aviation weather information requirements are met. FAA agreed with the findings and recommendations and advised us on the corrective actions taken or planned. For example, a joint committee has been recently established between FAA and NOAA to coordinate the development of similiar weather information systems by standardizing and sharing common specification elements with the goal of reducing overall costs to the taxpayers.

Automated Weather Observation System (AWOS)

Our review disclosed that FAA is independently developing its own weather observation system, AWOS, which is similar to the Automated Surface Observation System (ASOS), currently being developed by National Weather Service (NWS). FAA has spent about $15 million on its independent development of AWOS; however a large portion of this expenditure could have been avoided under a joint development approach. In addition, FAA has the opportunity to save additional expenditures on its development and testing of the prototype AWOS. Furthermore, future savings could occur in AWOS operation and maintenance (O&M) expenditures if the same system was used by both FAA and NWS. We recommended that FAA initiate a joint development and procurement effort with NWS to obtain needed automated weather observation systems. FAA agreed in principal with the finding and recommendation and advised us of the corrective actions taken or planned.

TRANSIT

SENATOR ANDREWS: The Fiscal Year 1986 Transportation Appropriations Bill contained a general provision, Section 323, which allows the Secretary to use up to one-half of one percent of transit capital construction funds for construction management oversight. Will this help alleviate the problem of faulty construction, and cost overruns that your office has reported on? Does this provision go far enough? If not, what else could be done in this area?

ANSWER: We believe that this funding provision will help alleviate the construction and cost overrun problems in new mass transit projects. We have not evaluated the effectiveness of Section 323, as UMTA is presently acquiring construction management services.

SENATOR ANDREWS: How will a list of management oversight firms be developed? Will the Office of Inspector General be involved in development of such a list? Should a local area be allowed to choose its own oversight firm?

ANSWER: In developing a list of oversight firms, UMTA is using the Federal procurement regulations which govern the competitive selection of Architect/Engineer (A/E) firms. Under a single procurement, UMTA is procuring the services of a pool of A/E or Construction Management firms for project management oversight services for future capital projects. We were advised that the technical selection process is complete and that negotiations for price are underway. Once firms are under contract, UMTA will issue work orders to individual firms for particular projects or project clusters. We have no involvement in the development of the list of project management oversight firms.

A local area is not precluded from choosing its own oversight firm, acquisition of construction management - A/E services is not to be construed as a substitute for grantee construction management. UMTA's objective is to provide itself with expert advisors so that it may better carry out its oversight responsibilities as the administering Federal agency.

SENATOR ANDREWS: Is the Inspector General doing any work on the 63rd Street Tunnel? If so, what?

ANSWER: Yes. We are currently reviewing the quality of track welding and controls over Federally funded equipment. This review involves assessing the quality of welds used on the continuous welded rail for the 63rd Street and Archer Avenue subway lines. We are being assisted in this review by an engineering firm under contract with the OIG. We have initiated this review because of concerns that the transit authority may not have adequately inspected the welds.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SENATOR ANDREWS: Has the Office of Inspector General concluded its investigation of the St. Lawrence Seaway Development Corporation?

ANSWER: Yes.

SENATOR ANDREWS: What were the chief findings of the office's investigation of Seaway activities?

ANSWER: Several contracting irregularities were noted in the Seaway Administration's lease of an aircraft. Negotiations for the lease were conducted outside of official procurement channels, and the lease was not in conformance with the Federal Acquisition Regulations. A related improper consulting contract was also disclosed. These matters were resolved when the lease and contract were rescinded. In addition, Government funds were improperly used to entertain certain employees and private citizens. The amount was refunded to the Seaway by the Seaway employees who authorized the expenditures. We also found examples of improper use of a Government vehicle and duplicate reimbursement for some travel expense claims. An audit of expenditures to renovate a leased building disclosed inadequate justification for contracts and entering into nonpersonal services contracts.

SENATOR ANDREWS: What is the status of the recommendations made by your office to the Seaway Administration? Has the Administrator agreed with and complied with the recommendations made by the Office of Inspector General? If so, how so? If not, why not?

ANSWER: All investigative findings and recommendations were both agreed and complied with by the Administrator and the Seaway Administration. There are no unresolved or unanswered investigative recommendations before either the Administrator or the Seaway Administration. Audit recommendations regarding the use of the Federal Acquisition Regulations (FARs) in procuring goods and services regulations are being followed. Recommendations regarding rescission of two contracts that were not awarded in accordance the FARs have been implemented. Records of the utilization of the renovated building are being maintained to determine if continued use is warranted.

SENATOR ANDREWS: The transportation appropriations bill language contains a dollar limitation on the amount that the corporation may expend for reception and representation (R&R) expenses. What has been the disposition of the Office of Inspector General's recommendation in this area? What further action is necessary? Who decides as to whether an antideficiency report should be filed?

ANSWER: The Saint Lawrence Seaway Development Corporation has written a regulation establishing procedures governing the use and accounting for R&R expenses. This matter has been referred to the Office of General Counsel and has been the subject of discussion with the Seaway. Documents for Secretarial review are being prepared. The Secretary of Transportation decides whether an antideficiency act violation has occurred.

SENATOR ANDREWS: Is the Office of Inspector General satisfied that these increased R&R expenses were due to 25th Anniversary activities or is there a pattern to these charges?

ANSWER: The primary increase in R&R expenses was the result of the 25th Anniversary activities.

SENATOR ANDREWS: Is action by this Committee, the General Counsel of DOT or by the Seaway necessary (at this time) to resolve the problem, if so, please elaborate. If not, why not?

ANSWER: No additional assistance appears to be needed to resolve this matter. We are satisfied with the corrective actions which have been taken or initiated to date.

A-76

SENATOR ANDREWS: The Office of Inspector General is active in the Department's implementation of A-76, (contracting out Government services). Provide an update of the number of positions which will be contracted out this Fiscal Year, and which programs are affected. What has been the Coast Guard's experience to date in contracting out services?

ANSWER: Currently information is not available to determine the number of positions which will be contracted out in the Department for FY 1986. However, over 90 percent of the A-76 studies completed in the Department through FY 1985 were in FAA and the U.S. Coast Guard. Accordingly, FAA contracted out 258 positions and USCG 105. The major areas affected in FAA are ADP operations, word processing, mail/message service, warehousing/supply, and facilities maintenance. The major areas affected in USCG are maintenance (buoy, electronic, ferryboat, and family housing), food service operations, security guards, and ADP operations.

In addition to the positions selected for outside contracting in FY 1985, as of February 3, 1986, the USCG has determined that an additional 283 positions can be contracted out. By the end of FY 1986, the USCG expects to have identified a cumulative total of 1,050 positions which can be contracted out.

SENATOR ANDREWS: The Coast Guard has been concerned that lower-priced contract service would replace inhouse military and civilian resources, only to result in eventual higher costs and no Federal capability in key areas such as ship, aircraft repair and radionavigation. What are your assessments of this concern?

ANSWER: At this time, we see no immediate concern in this area. USCG has only completed studies at four electronic maintenance facilities affecting 48 military positions of which 41 were selected for contracting out. Only one more electronic maintenance facility study is planned for FYs 1986 and 1987 affecting eight positions. Also, only one boat maintenance study has been completed affecting 10 military positions, of which 5 could be contracted out. No studies of boat maintenance facilities are planned for FYs 1986 and 1987.

No specific studies of aircraft maintenance facilities have been completed or are planned for completion in FYs 1986 and 1987.

EXCESS PROPERTY RIGHTS

SENATOR ANDREWS: Your semiannual report for the first half of FY 1985 states that significant Federal funds could be recovered through the sale of excess property rights associated with transit (and highway) projects. It further recommends that the Urban Mass Transportation Administration (UMTA) revise its existing policy to recognize long-term nontransit leases of air rights as tantamount to property disposal. What do you estimate the value of these air rights to be? What share of this might the Federal Government reasonably be expected to gain?

ANSWER: Our review of nontransit use of real property was done by our Atlanta Regional Office. They reviewed two transit authorities - Metropolitan Atlanta Transit Authority and Metro Dade County Transportation Administration. Their review focused on the considerable dollars received as leased income from long-term leases rather than on determining the value of the air rights itself. It was our position that the long-term leases were tantamount to disposal and as such the Federal Government should get its approximate 70 percent of the disposed value. We did determine that the two transit authorities had entered into or planned to enter into nontransit leases having a present value in excess of $49 million. A determination as to the value of the subject air rights would be conjectural and any attempt to project a nationwide value of transit authorities' real property and related air rights would be even more conjectural.

SENATOR ANDREWS: The report mentions further that the Deputy Secretary has directed an indepth review of the Department policy on air rights in response to a request from the Inspector General. Who is conducting this review? When will it be completed? Have there been any preliminary findings to date?

ANSWER: The review was performed by the Deputy Assistant Secretary for Budget and Programs, Office of the Secretary of Transportation.

The results of the review were issued on November 6, 1985. The conclusion of this review was that revenues from the sale or lease of air rights should be used by transit authorities for furtherance of transit programs. We believe the policy as regard to sales is in conflict with OMB Circular A-102, Attachment N, which requires that the Federal Government receive an appropriate share of sales proceeds. We further believe that generated income should go only to operations and maintenance uses after it is determined that the grantee has no capital project needs.

SENATOR ANDREWS: Is there potential for Federal cost recovery from leases of air rights on urban highway projects?

ANSWER: In our audit report R4-FH-4-170, Report on Nonhighway Use of Real Property, Federal Highway Administration (FHWA), we informed FHWA of the potential of generating Federal revenues from nonhighway use of real property; i.e., air rights. For FHWA to obtain its share of this income, we recommended that FHWA's Associate Administrator for Right-of-Way and Environment seek participation through legislation and/or application of disposal regulations. FHWA's position was that it did not want to participate in air space income; that such participation would reduce the states' incentive to use such property for income purposes and it would also interfere with state and local government programs.

The matter was resolved through the Deputy Secretary's decision that grantees can use the Federal share of net revenues from air right sales or from new leases for program purposes.

RAIL-HIGHWAY CROSSINGS DEMONSTRATION PROGRAM

SENATOR ANDREWS: Your semiannual report for the first half of FY 1985 recommends that the rail-highway crossings demonstration program be terminated. What is the basis for this recommendation? Why do you consider this program less cost effective than other sources of Federal funding available to the states for the elimination of railroad crossing hazards?

ANSWER: Our recommendation is based on past audit observations. The overriding observation is that the 19 demonstration projects provided for in Section 163 of the Federal-aid Highway Act of 1973 were not true demonstration projects. It was not intended nor has there been any advancing of the state of the art in highway construction or implementing of new technology. In addition, by providing separate legislation for these 19 demonstration projects, they by-passed the priority system used to select the most deserving rail-highway crossing projects and the controls over project costs. This lack of cost control is well demonstrated in 3 of the projects we have reviewed as follows.

Increase in Project Cost
Estimated Cost to Complete

Project	1973	1984	Percent Increase
Lincoln, Nebraska	$ 3 million	$ 29 million	867 percent
Elko, Nevada	6 "	45 "	650 percent
Wheeling, W. Virginia	6 "	40 "	567 percent

SENATOR ANDREWS: What do you propose as an alternative to this program?

ANSWER: We do not believe that an alternative to the rail-highway program is needed. There are already Federal-aid highway programs to finance most of the rail-highway crossing needs. In addition, the states also have funds available for the elimination of railroad crossing hazards.

SENATOR ANDREWS: Where should such an effort be housed - in the rail or highway administration?

ANSWER: We believe FHWA has been effective in administering the rail-highway crossing program. Overruns are primarily due to Congressionally mandated requirements.

BRIDGE INSPECTIONS AND POSTINGS

SENATOR ANDREWS: Your semiannual report for the first half of FY 1985 states that you advised FHWA of problems encountered in audits of three different regions on the safety of bridges. Specifically, it appears that state and local governments are not adhering to National Bridge Inspection Standards (NBIS). Many bridges remained uninspected for 4 years or more and many bridges were not properly posted. Even when bridges were posted, there was no enforcement of the safe load limits. What steps are being taken to address this safety problem?

ANSWER: FHWA at both the national level and regional level has taken action to improve the inspecting and posting of unsafe bridges. FHWA Headquarters has instituted a program to bring all states into compliance with NBIS requirements. As part of this program, the FHWA Executive Director on May 14, 1985, required that all nine FHWA division offices in Region 1 request each state to determine which governmental entities are not in compliance with the National Bridge Inspection Standards. In those cases where there is a noncompliance, Federal-aid funds are to be suspended until corrected or until a short term plan to correct is approved. Subsequent to this, the Director of the FHWA Regional Office of Structures, by memorandum to each division office, cited the compliance problem and asked that the problem be discussed with the State Highway Agency and that the Director be informed of SHA's efforts to develop a short term plan of correction. The Director also will review the short term plans before the division approves them.

For FHWA Region 3, a program has been instituted to bring the regions into compliance with NBIS requirements. Most bridges have now been inspected and posted. The remaining are scheduled to be in compliance by March, 1986. FHWA, Region 3 has instructed the states to comply with the 3-ton limit and FHWA will monitor. Maryland has revised its posting practices to preclude age and other arbitrary reduction factors used in rating bridges. In addition, for Region 3, FHWA's review of the various states' bridge inspection and posting laws indicate that all of the states have the legal and statutory authority to inspect and post locally owned bridges.

For FHWA Region 4, an inventory of delinquent bridges has been prepared and provided to appropriate FHWA division offices for followup with the states.

For enforcement, the FHWA Regional Administrator in Region 1 advised all division offices that the only realistic method to acquire sufficient information about the weight of vehicles is through the use of weigh-in-motion (WIM) equipment. To date the States of Connecticut, Maine and New Jersey have acquired or anticipate acquiring WIM equipment. The remaining states are considering its use. The Associate Administrator for Engineering and Operations states that WIM equipment which is used for vehicle weight enforcement purposes is eligible for Federal-aid construction funding under the provisions of Section 101 of Title 23 U.S.C. The Regional Administrator, Region 1, stated that the establishment of operational WIM systems is a priority objective and has been included in the FY 1986 Program Emphasis areas.

GUIDANCE ON BUS REPLACEMENT AND SPARE BUS RATIOS

SENATOR ANDREWS: Your semiannual report for the second half of FY 1985 states that, in the absence of formal UMTA guidance on acceptable spare bus levels for grantees, transit operators were permitted to retain and operate buses far in excess of peak requirements. For example, the report states that, at seven transit authorities visited, there were 1,765 buses more than the total peak requirements, representing a spare bus to peak requirement ratio of 39 percent. In a related audit, it was reported that Federal outlays for bus replacements in one region could be reduced substantially over the next 5 years through adoption of an alternative methodology for determining bus fleet requirements by extending normal bus service life from 12 to 15 years and increasing the authorized spare ratio from 20 to 30 percent. How much could be saved if this methodology were applied nationally?

ANSWER: The regional audit report estimated a present value of Federal savings related solely to the above factors to range from a low of $208 million to a high of $564 million over the first 5-year period (FY 1986 - FY 1990). Although UMTA believed the report would be helpful in assessing the effectiveness of its new replacement and spare ratio policy, it did not believe that the region's base data for the report was typical of the operations nationwide because of differences in operational factors such as local climate and road conditions.

SENATOR ANDREWS: Why, in your estimation, are such high spare bus ratios being maintained?

ANSWER: We believe that high spare bus ratios were maintained, because (1) prior to June 17, 1985, UMTA had no spare bus ratio policy, (2) transit operators want to be ready in the event of a sudden increase in peak requirements, and (3) many older buses have little resale value.

SENATOR ANDREWS: How is this likely to be affected by the proposed elimination of operating assistance for urbanized areas over 200,000 in population?

ANSWER: Elimination of operating assistance could cause different actions by different transit authorities as related to excess buses. Some transit authorities might be inclined to view excess buses as a source of funds through sale, others might view them as a cheap source of spare parts. However, sale or retirement of buses prior to the end of normal life expectancy generally requires a payback of the Federal share.

REGIONAL CONSOLIDATION

SENATOR ANDREWS: Your budget justification states that during the past year, Regions I, II, and III were consolidated into a new regional office located in Baltimore, Maryland, with suboffices located in Boston, New York City, and Albany. How many positions will ultimately be eliminated as a result of this consolidation?

ANSWER: The purpose of the reorganization was to realign our OIG audit operations to conform more closely with the various Operating Administrations within the Department and to also compensate for the relatively small geographical area of the three regions. The reorganization improved the effectiveness of our audit coverage while providing the same level of service. We believe there may be a savings in supervisory and clerical support realized through the consolidation.

SENATOR ANDREWS: What is the impact on your existing operations in Boston, New York City, and Albany?

ANSWER: It is too early to assess the full impact of the reorganization on our audit operations in Boston, New York City, and Albany. However, we have improved our audit coordination and continue to provide the same level of audit service.

SENATOR ANDREWS: Are you planning other regional consolidations in the future?

ANSWER: Not at this time.

ESSENTIAL AIR SERVICE (EAS) AUDITS

SENATOR ANDREWS: On page 10 of the budget justification, staffing summary, you indicate the elimination of 12 positions in FY 1987 associated with the Essential Air Service (EAS) Program Audit function. If this Program is continued through FY 1987, can the OIG carry out its audit responsibilities within the 459 positions requested for FY 1987? If not, how many additional positions would be necessary to maintain the EAS audit function in FY 1987? What adjustment would be necessary to the appropriations request? (Provide specific object classification item increases.)

ANSWER: Should the EAS audit function continue without the positions, we will assess our overall audit priorities and assign commensurate resources to EAS audits. In all probability, the EAS audit backlog will continue to grow and lower priority audits of carriers' subsidy claims will not be conducted.

Twelve positions, four FTE, $167,000 in personnel compensation and $50,000 in travel have been identified with the EAS audit function in 1987.

SENATOR ANDREWS: Why is EAS termination projected to save $167,000 (pg. 9) when last year's estimate was $310,000.

ANSWER: For 1986, seven FTEs were identified for elimination with the EAS audit function. For 1987, a more gradual reduction has been planned, with four FTEs identified for elimination.

PERSONNEL COMPENSATION

SENATOR ANDREWS: On page 6 of the budget justification, object classification, you estimate $2,550 thousand for civilian personnel compensation in FY 1986. This compares to an estimate of $2,303 thousand in the FY 1986 budget justification. Why is there such a large discrepancy?

ANSWER: The increase in personnel benefits is primarily the result of the addition of the Relocation Income Tax Allowance (RIT). P.L. 98-151 was enacted on November 14, 1983, authorizing reimbursement of all or part of the additional Federal, state, and city income taxes incurred by transferred employees as a result of reimbursement for certain relocation expenses. P.L. 98-473, enacted October 12, 1984, amended P.L. 98-151 by modifying the RIT to clearly include any payments to relocation service companies that must be reported as income by employees; by extending coverage to include all local taxes, rather than city only, in addition to Federal and state taxes; and by clarifying that reimbursement of "substantially all" of these additional taxes be authorized. Regulations implementing this legislation were only recently issued by the General Services Administration.

SENATOR ANDREWS: Explain the increase in "other personnel compensation" in FY 1986 from the requested amount of $110,000 to $330,000.

ANSWER: This increase is attributable to two merit pay payouts which are scheduled for 1986 (one in October 1985 and one in September 1986) instead of the customary one.

OTHER SERVICES

SENATOR ANDREWS: On page 6 of the budget justification, object classification, what items are included under the heading "Other Services?"

ANSWER: Other services include training, security investigations, furniture and equipment repair, alterations to space, storage of household goods, other contractual services (includes contract audit), other reimbursable agreements, and Working Capital Fund (charges for common services).

SENATOR ANDREWS: You estimate $3,192 thousand for other services in FY 1986. This compares to an estimate $3,675 thousand in the FY 1986 budget justification? Why is there such a large discrepancy?

ANSWER: The reestimate of other services is the result of the shortfall in the contract audit area. We do not anticipate billings will be as high in that area as previously projected. Funds were shifted to other high priority areas such as the additional merit pay payout and the RIT allowance which was discussed in a previous question.

EQUIPMENT

SENATOR ANDREWS: On page 6 of the budget justification, object classification, you indicate equipment expenditures of $177 thousand for FY 1987. This compares to $300 for FY 1986 and $586 thousand for FY 1985. What has been purchased with the FY 1985 and 1986 funds? What will be purchased in FY 1987?

ANSWER: Equipment purchased in 1985 is as follows:

Item	Amount
Word Processors	$ 124,002
Grid MicroComputers	198,452
Personal Computers	194,567
Computer related peripherals	16,507
General Office Furniture	38,593
Office Equipment (cameras, calculators, typewriters, etc.)	13,916
	$ 586,037

Purchases for 1986 have been minimal due to the Gramm-Rudman-Hollings reduction. General office furniture and equipment of $11,189 have been ordered for Fiscal Year 1986.

Planned purchases for 1987 are as follows:

Item	Amount
Computer equipment and peripherals	$ 152,000
Office equipment	10,000
General office furniture	15,000
	$ 177,000

SENATOR ANDREWS: Why was $586,000 obligated in FY 1985. When last year's budget showed only a $350,000 estimate? Why will $300,000 be obligated this year, rather that the requested $56,000.

ANSWER: Equipment was purchased in FY 1985 to (1) meet the increased demand for microcomputer capabilities for regional offices, and (2) provide for additional microcomputer capabilities required by the redesign of the Management Information System which will result in new micro to/from mainframe computing requirements.

Due to the Gramm-Rudman-Hollings reduction, it is anticipated that equipment purchases will be less than $70,000 for FY 1986.

SENATOR ANDREWS: Why is there a steady decline in equipment purchases over this period?

ANSWER: After the expense of initial equipment buys, it is anticipated requirements will decrease to the cost of the general office equipment and furniture replacement buys.

STANDARD LEVEL USER CHARGES

SENATOR ANDREWS: Why is there such a large increase (20 percent) estimated for Standard Level User Charges (SLUC)?

ANSWER: The General Services Administration rental charges for office space increased in the Headquarters Nassif Building from $15.03 per square foot to $22.95 per square foot.

TRAVEL

SENATOR ANDREWS: Explain the FY 1986 travel obligation increase of $100,000 from last year's request to the estimate reflected in the budget.

ANSWER: The OIG request for FY 1986 assumed elimination of the EAS audit function. The travel associated with this function was also eliminated. When the decision was made to continue the EAS program in FY 1986, the travel obligations associated with this function were restored.

OBLIGATIONS

SENATOR ANDREWS: Last year the Committee expressed concern that the amount of obligations (about $8.2 million) being carried over into FY 1985 and 1986 was exceptionally high. These amounts have been adjusted downward for FY 1986 to $3.7 million and $4.4 million in FY 1987. What was done to correct the problem?

ANSWER: The large balance in 1985 was a result of many obligations recorded on the accounting records which should not have been. During 1985, the OIG in joint effort with the OST Accounting Operations Division cleaned up many of these obligations. Some were being carried erroneously after liquidation, some were valid but had expired, and some were errors and should have never been recorded. As a result of this effort, the obligated balance start of year has decreased in 1986.

SENATOR ANDREWS: What will be necessary to further improve the Office of Secretary of Transportation (OST) accounting system to more accurately record obligations?

ANSWER: The OST accounting system was determined not to be in general conformance with the Comptroller General's standards in 1985. As a result of this determination, a number of organizational and technical changes are being implemented to correct the nonconformance. The OIG has been requested to conduct a followup audit when the nonconformance is totally corrected to assure that proper action has been taken.

SENATOR ANDREWS: How does this problem with OST affect the accounting records of the other agencies handled (RSPA, OST, MBRC, etc.).

ANSWER: OST is currently determining to what extent the obligations of the other agencies serviced by the accounting system were improperly recorded.

CONTRACTUAL SUPPORT

SENATOR ANDREWS: The Office of Inspector General (OIG) has in place $100,000 in engineering consultant service contracts currently, according to the justification. What was obligated in the past three fiscal years for such support? Will this amount decrease as the Department's Budget Authority is reduced?

ANSWER: Obligations for technical engineering support services were: -0- in FY 1984, $100,000 in FY 1985, and $200,000 in FY 1986. We do not anticipate a decrease in the need for this type of support in the future.

SENATOR ANDREWS: What use is being made this fiscal year and next of the Professional Exchange Program? What contractual savings would be possible if more exchange professionals were used?

ANSWER: In Fiscal Year 1985 the OIG hosted a Professional Exchange Program (PEP) participant, a General Engineer from the Federal Aviation Administration. He assisted the OIG in audits dealing with contract construction specifications for airport runway pavements, highway pavements, bridge structure, etc. We found his assistance of great value and he subsequently joined our organization.

Late in Fiscal Year 1985, we used his expertise to assist us in identifying other engineering candidates through the PEP for possible assignments in Fiscal Year 1986. However, we found that there were limited numbers of candidates available in the program in the engineering disciplines. We intend to utilize the PEP Program to the maximum extent possible, consistent with overall OIG operating requirements. We don't believe there will be an opportunity to reduce our contractual engineering support because of the expanding need for technical engineering support for our audits and investigations.

AUDIT WORKLOAD

SENATOR ANDREWS: On page 18 of your Budget Justification, why is there such a significant reduction anticipated in the audit workload for UMTA between Fiscal Years 1985 and 1987?

ANSWER: The decrease in staffyears devoted to the UMTA is the result of (1) the slight reduction in OIG's overall staffing, (2) an increase of resources devoted to the new Inspection Program, (3) a shifting of resources to administrations requiring greater audit emphasis and most importantly, (4) the significant decrease expected in UMTA's Budget authority in Fiscal Year 1987.

SCHEDULES

SENATOR ANDREWS: Supply for the record a FY 1986 post-sequestration object classification schedule.

ANSWER:

Object Classification
$ in thousands

	Actual 1985	Con. Res. 1986	GRH	Bal.	Request 1987
Personnel Comp.	$ 17,195	$17,865	-89	$17,776	$17,656
Benefits	2,397	2,550	-350 1/	2,200	2,579
Benefits to Former Personnel	14	20		20	20
Travel	1,743	1,750	-50	1,700	1,700
Transportation	39	50	-20 1/	30	50
SLUC	1,185	1,228		1,228	1,533
Rents and Comm.	326	400	-83 2/	317	400
Printing	82	90	-5	85	90
Other Services	2,959	3,192	-360	2,832	3,267
Supplies	126	152		152	155
Furniture and Equip.	586	300	-230	70	177
Indemnities	0	3	-	3	3
Total	$26,652	$27,600	-1,187	$26,413	$27,630

1/ PCS related costs

2/ Savings in FTS. Scheduled for increase in 1987.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

NEW YORK TRANSIT

SENATOR D'AMATO: Have you completed your audits of the 63rd Street tunnel project and the Archer Avenue subway project?

ANSWER: We have completed one of several audits planned on the 63rd Street tunnel project and the Archer Avenue Subway Project. A report on our first audit which dealt with the quality of construction on the 63rd Street and Archer Avenue projects was issued on September 12, 1985.

SENATOR D'AMATO: If no, when will the reviews be complete? If yes, what recommendations were made? Have they been implemented?

ANSWER: We are also currently finalizing a review of the quality of concrete inspection by TA consultants on the Archer Avenue project. We expect to issue our report on this area by March 31, 1986. In addition, we are reviewing the quality of track welding and controls over federally funded equipment on both the 63rd Street and Archer Avenue projects. We expect to complete these reviews in May and July 1986, respectively.

With respect to our completed audit, we recommended that the UMTA Regional Administrator require the New York City Transit Authority (TA) to: (1) obtain a comprehensive technical evaluation and inspection of both the 63rd Street and Archer Avenue projects to ensure their structural integrity and identify any required remedial action; (2) establish and implement a system for prompt followup on concrete test results which indicate deficiencies; (3) implement procedures that will provide accurate and complete documentation of concrete receipt and inspection; and (4) determine the extent of shallow reinforcing steel and take immediate action to correct construction deficiencies in a retaining wall.

In response to our recommendations, the TA has contracted with Construction Technology Laboratories (CTL) for a comprehensive technical evaluation of the 63rd Street and Archer Avenue Lines to ensure their structural integrity and identify areas in need of remedial action. In addition, CTL under this contract is evaluating the TA's quality control procedures for construction management.

Overall, our recommendations have been implemented or are in the process of being implemented.

QUESTIONS SUBMITTED BY SENATOR CHILES

COAST GUARD SEARCH AND RESCUE

SENATOR CHILES: Mr. Genovese, I noticed in your statement that the Office of the Inspector General found, in the process of your work over the last fiscal year, that facilities and resources devoted to Coast Guard search and rescue operations could be reduced without loss in responsiveness to emergency cases.

I wonder if you could elaborate for the committee specifically what facilities and resources could be reduced and how this reduction would not impact Coast Guard capabilities. Also for the record, Mr. Genovese, please submit the study that was done by your office on this particular subject.

ANSWER: Our audit report on the Search and Rescue (SAR) Program identified 21 SAR stations shown in Exhibit A of the report that could be closed or seasonalized. In two locations, Station Crisfield, Maryland, and Station Crescent City, California, the Coast Guard proposed constructing new stations which we concluded were not justified. Exhibit B of the report identifies 13 cutters and boats which were not required or not being effectively utilized at their present location and which could be reassigned to locations with an identified need. Increased use could be made of commercial resources in responding to nonemergency SAR cases, which could free Coast Guard resources for higher priority work.

Our evaluations and conclusions were based on audit work performed in the First, Fifth, Ninth, Eighth, Eleventh and Twelfth Coast Guard Districts. We reviewed the workload of shore stations in these districts and the availability of alternative resources in the area, such as other Coast Guard stations, Auxiliary forces, local police, fire and marine facilities, and commercial operators. Only those facilities with low SAR activity and minimal operation in other Coast Guard programs, or activities which could be absorbed by other resources, were considered for closure, seasonalization, or transfer of resources. The requirements of other missions were carefully considered before deciding to recommend reducing, eliminating, or transferring SAR facilities and personnel.

We have provided for the Committee's use four documents. They are: a copy of our Report on the Coordinated Audit of the Coast Guard's SAR Program, Report No. AV-CG-5-023, dated June 24, 1985; a copy of our letter to the Deputy Secretary of Transportation requesting resolution of the unresolved issues; a copy of the Coast Guard's comments on our draft report; and a copy of the OIG comments addressing the Coast Guard's response.

Although the Coast Guard indicated disagreement with our report, the Coast Guard in its FY 1986 budget submission proposed closing or seasonalizing 10 to 15 Great Lakes multi-mission stations and consolidating their operations at remaining stations. The Coast Guard indicated that this action would result in a more cost-effective SAR operation and reduce annual costs by $5 million and military personnel requirements by 150 spaces.

We believe that a careful evaluation will identify additional locations where the mission and workload do not justify the facilities and resources assigned and where substantial savings could be achieved without impacting on the ability of the Coast Guard to effectively perform its missions.

BID RIGGING

SENATOR CHILES: Mr. Genovese, your statement and budget justification material note that you are continuing your bid rigging investigations that were begun several years ago. Apparently states where your investigations have been completed are experiencing a reoccurrence of bid rigging violations. I noticed that you have developed a course entitled "How to Conduct Construction Bid Rigging Investigations" and this course was given three times over the last year to various Federal agencies. In view of the fact that bid rigging is an illegal activity which is likely to continue at some level, have you considered the possibility of recommending that the states be required, as a condition of Federal highway funding, to continue a level of investigations on bid rigging problems as opposed to this activity continuing to consume large portions of your resources?

ANSWER: We have considered that possibility. We have trained state personnel at each of our bid rigging training sessions in the hope that trained state personnel will be able to detect suspicious bidding activity. Twenty-two states have recognized the need for better record keeping and analysis of bidding behavior. They have initiated acquisition of computerized bid monitoring and analysis systems. Few states, however, would be able to conduct successful criminal antitrust investigations because of limited state resources and there will always be a Federal interest because of interstate movement of the contractors involved. The best that we can hope for is increased deterrence through increased state vigilance, and earlier reporting of suspicious conduct.

DBEs

SENATOR CHILES: Mr. Genovese, your statement indicates that you have "mounted a major offensive" against fraudulent disadvantaged business enterprises. This, of course, relates to the statutory requirement that 10 percent of highway construction monies be directed to disadvantaged businesses. Apparently, this problem occurs in a number of fashions, including legitimate DBE's being coerced into acting as brokers for passthrough subcontracts to non-DBE's. Your budget justification noted that "once favorable case law is established" that you expect the investigations and prosecutions to increase substantially in this area. What do you expect to be achieved by the establishment of "favorable case law?"

ANSWER: Some prosecutors are unwilling to prosecute criminal cases unless they feel reasonably certain that they will prevail in trial, and that the Government will prevail upon appeal. Once "favorable case law" has been established, prosecutors can concern themselves with the facts of a case and be less concerned with being overturned on appeal. We are now reviewing DOT regulations to see where they can be improved, with a view toward enhancing the prospects of successful prosecutions.

FAA WEATHER DATA AND INFORMATION

SENATOR CHILES: Your statement noted that you have hired a meteorological consultant to assist in a project involving the collection and dissemination of weather data and information. More specifically, this investigation is focused on potential duplication between the FAA and the Weather Bureau. I understand your preliminary findings suggest that as much as $40 million of unnecessary expenditures are occurring at the Federal Aviation Administration. Mr. Genovese, can you detail for the committee what your findings have been in this area and also, please submit for the record a copy of the investigation with findings, conclusions and recommendations that has been completed on this subject.

ANSWER: The Department of Transportation, OIG is a member of a joint PCIE Project which was initiated to review Federal weather surveillance and dissemination systems. The OIGs of Department of Commerce and Defense are also members of this joint effort. The DOT Inspector General chairs this effort. The scope of this project involves evaluating selected major existing and proposed Federal weather systems, including selected aspects of the Next Generation Weather Radar (NEXRAD). The Department of Transportation, OIG issued draft reports on two weather systems being developed by Federal Aviation Administration--the Central Weather Processor (CWP) and Automated Weather Observation System (AWOS). The tentative findings are summarized below. Copies of the final reports will be provided the committee upon issuance.

Central Weather Processor (CWP)

Our review disclosed that FAA is independently developing its own prototype weather information system, the CWP, to improve the quality and timeliness of weather information to National Airspace System (NAS) users. However, the CWP requirements for interfacing with NEXRAD and the NAS Plan Advanced Automation System (AAS) had not been fully defined or identified even though $30 million--including $18 million for research and development (R&D)--had already been spent on attempts to develop this system.

We made several recommendations with the aim of encouraging FAA to work jointly with Department of Commerce to avoid duplication while still ensuring that aviation weather information requirements are met. FAA agreed with the findings and recommendations and advised us on the corrective actions taken or planned. For example, a joint committee has been recently established between FAA and NOAA to coordinate the development of similiar weather information systems by standardizing and sharing common specification elements with the goal of reducing overall costs to the taxpayers.

Automated Weather Observation System (AWOS)

Our review disclosed that FAA is independently developing its own weather observation system, AWOS, which is similar to the Automated Surface Observation System (ASOS), currently being developed by National Weather Service (NWS). FAA has spent about $15 million on its independent development of AWOS; however a large portion of this expenditure could have been avoided under a joint development approach. In addition, FAA has the opportunity to save additional expenditures on its development and testing of the prototype AWOS. Furthermore, future savings could occur in AWOS operation and maintenance (O&M) expenditures if the same system was used by both FAA and NWS. We recommended that FAA initiate a joint development and procurement effort with NWS to obtain needed automated weather observation systems. FAA agreed in principle with the finding and recommendation and advised us of the corrective actions taken or planned.

COAST GUARD WORKLOAD PROJECTION

SENATOR CHILES: Mr. Genovese, on page 18 of your budget justification, you display Audit Workload between the various audit activities and among the various agencies at the Department of Transportation. I noticed that the amount of resources devoted to the Coast Guard in the Hotline, Survey, Inspection area is expected to increase 30-fold between 1986 and 1987. Please explain why you are projecting such a large increase in audit workload for the Coast Guard.

ANSWER: The Coast Guard projection in this area increases from one/tenth to three full-time equivalents due to the initiation of OIG's new Inspection Program. This program is intended to provide broader coverage of Departmental operations through the use of quick limited reviews of an activity or facility. In Fiscal Year 1987, OIG anticipates expanding effort in this program.

UMTA ANTIDEFICIENCY

SENATOR CHILES: Mr. Genovese, the Committee received on December 11 a communication from Secretary Dole indicating that in excess of $55.5 million of Antideficiency Act violations occurred at the Urban Mass Transportation between Fiscal Years 1972 and 1979. This problem occurs because in the 1978 Surface Transportation Assistance Act, the law was changed resulting in the lapse of unobligated Section 3 funds that were appropriated between Fiscal Year 1978 and 1979. Apparently the word did not get out to the field that these funds had been lapsed and the field continued to expend these moneys on so called zero dollar amendments to existing grants. Mr. Genovese, as we have your IG audit reports on this subject dated March 7, 1984, and March (sic) 22, 1984, why did it take until March and June of 1984 for the IG to highlight a problem that had been occurring since 1978. The letter from the Secretary to the Committee reads "due to the extreme administrative burden that would be involved, the Urban Mass Transportation Administration has not been able to precisely quantify the amount of over obligations." Mr. Genovese, have you been able to quantify the exact amount of overobligations and, if not, why?

ANSWER: Although it would appear that it took a long time to highlight the problem, under the circumstances we feel that the audit coverage of the area involved at UMTA was reasonable. This particular problem involved some rather technical aspects of both auditing and appropriations law. From an audit standpoint, although we provide audit coverage to UMTA on a continual basis, we cannot cover all aspects of UMTA's operations. From an appropriations standpoint, the 1978 Act specified that unobligated Section 3 funds appropriated from FYs 1972-1978 lapsed on September 30, 1980. Therefore, the potential for problems did not exist until after that date. Further, the earliest amendment that our work identified as being a potential problem was dated in February 1981, indicating that although a potential for problems existed since October 1, 1980, the actual problems did not begin until sometime later.

We believe that we have provided reasonable coverage to UMTA's obligation and deobligation practices. In the March 7 report you cited we noted that although UMTA had been apprised by the IG on two prior occasions of the need for timely project reviews and the need to deobligate funds, it had not done an effective job. It was following up on the need for deobligations that surfaced the problems on amendments that were made after September 1980. Field work on the audit that initially disclosed the antideficiency problem began in one of our regional offices in June, 1982. The results of that review including the potential antideficiency situation was provided to the UMTA regional office in a draft report in May 1983 with a final report (R7-UM-3-119) being issued on September 14, 1983. In the meantime, the resolution of the antideficiency problem required elevating the audit matter to OIG Headquarters because it was due to systematic problems within UMTA itself. The Headquarters audit began in June 1983 and UMTA was provided that review in October 1983.

With respect to the quantification of the dollar amount of the overobligation, we have not attempted to quantify the full amount of the violation because we believe that UMTA, as the organization with the violation, is the proper one to make such a determination. However, we believe there is merit to UMTA's comment that such an effort would be an administrative burden, since the systemic problems that allowed the deficiency to occur have been corrected.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

Your office has an important role in developing the Department's annual reports on its internal control and accounting systems under the Federal Managers' Financial Integrity Act. I have several questions relating to management problems and the FIA process with which I hope you can help me.

OIG APPROVAL BY DOT FIA REPORT

SENATOR LAUTENBERG: The Department's 1985 FIA Report states that 11 of its 14 accounting systems are in general conformance with the standards and guidelines prescribed by the Comptroller General. Did your office sign off on this report?

ANSWER: We did not take exception to the report.

SENATOR LAUTENBERG: GAO raises serious questions as to whether the Department's claim that 11 of its accounting systems conform to the Comptroller General's requirements is valid. GAO points out that every one of them had one or more deficiencies and that, in some cases, the Department did not subject its systems to operational tests. Given these problems, how could the IG concur in the Department's report?

ANSWER: The Department followed OMB's guidance in conducting limited reviews and transaction tests were performed when detailed reviews were made. Nothing came to our attention that indicated the Department as a whole did not comply with prescribed guidelines.

SENATOR LAUTENBERG: Aren't you supposed to be "tougher than junk yard dogs?"

> [Note: The IG's September 1985 Semiannual Report states that improvements are needed in DOT's Internal Control Evaluation (i.e., FIA) Program]

ANSWER: We believe we performed our oversight role in a competent and professional manner. We have made a number of recommendations to improve the process in the Department.

CORRECTING ACCOUNTING DEFECTS AT COAST GUARD, UMTA AND OST

SENATOR LAUTENBERG: The three nonconforming systems, as identified by the Secretary are in Coast Guard, UMTA and OST. When did your office first become aware that there were serious accounting problems in these agencies?

ANSWER: We have known about the serious accounting problems in Coast Guard and UMTA for a number of years. We only recently became aware of the extent of the OST accounting system problems as a result of an audit survey we performed.

SENATOR LAUTENBERG: When were they first brought to the attention of the top management of the Department?

> [NOTE: The Coast Guard's problems have been recognized since at least 1978. In fact, it was the weaknesses in the Coast Guard system that gave rise to the effort to establish a Departmentwide, unified financial management system, beginning in 1984.]

ANSWER: Top management of the Department has been aware of the accounting system problems in Coast Guard and UMTA for a number of years. The problems in the OST accounting system were surfaced during 1985.

SENATOR LAUTENBERG: Why haven't these systems been brought up to the Comptroller General's standards?

ANSWER: The Department determined the action necessary to correct the Coast Guard nonconformance was to design a new system. This was initiated by the Coast Guard, but in FY 1984 the project was expanded to design a Departmental Accounting and Financial Information System (DAFIS). That effort is still in the early stages of development. According to information recently provided to us by the DAFIS project office, the project is still in the requirements definition phase--which is currently about 65 percent completed. In the meantime, the Coast Guard subsystems for receivables and payables are being changed to address some of the nonconformance issues.

The action necessary to correct the Office of the Secretary (OST) nonconformance is also the implementation of DAFIS. While the DAFIS project proceeds, actions were taken to implement organizational changes to streamline operations, implement procedures to improve internal controls, and automate the system where possible to reduce the level of the current system's nonconformance.

The action necessary to correct the UMTA nonconformance was the implementation of a new accounting system. This corrective action was initiated prior to FY 1984, and is now in the final stage of implementation. The full implementation should correct the nonconformance.

SENATOR LAUTENBERG: How much longer is it going to take? Does the Department have a timetable for completing corrective action?

ANSWER: Implementation of DAFIS in the first Coast Guard accounting site is currently scheduled for late FY 1988, with the remaining sites being implemented on a phased basis as soon as possible. Interim changes to the OST system and to the Coast Guard subsystems for receivables and payables are being made to address some of the conformance issues.

Corrective action currently being taken should bring the UMTA accounting system into general conformance by the end of 1986.

SENATOR LAUTENBERG: The Administration is requesting a total of $3.7 billion for these agencies in FY 1987. How much of this funding would be at risk as a result of the weaknesses and defects you have identified in their accounting systems?

ANSWER: While weaknesses in the Coast Guard, UMTA and OST accounting system do make the systems more vulnerable to losses, we do not believe there will be large dollar losses due to fraud and theft. We have been performing audits in vulnerable areas such as imprest funds, duplicate payments and cash management in order to prevent abuses in the systems.

CONNECTION BETWEEN AUDIT AND INVESTIGATIVE FINDINGS AND SYSTEMIC FLAWS IN MANAGERIAL CONTROLS

SENATOR LAUTENBERG: In your statement, you indicate that "During FY 1985, audit recoveries, fines, penalties, and other investigative costs avoidance totaled $911 million..." To what extent are these potential losses attributable to deficient managerial and accounting controls?

ANSWER: There are many causes associated with our audit findings. Some are due to deficient managerial and accounting controls, some derive from policy and legislative issues, and some are due to theft and malfeasance. We do not categorize our findings by specific cause but we do alert departmental FIA coordinators to audits which we belive point out internal control problems and these are considered for reporting as internal control weaknesses by the Secretary in the FIA report.

SENATOR LAUTENBERG: How much of the waste, malfeasance, and fraud uncovered by your audits and investigations results from inadequacies in managerial structure and control?

ANSWER: We are not able to definitively quantify the amount of audit results caused by inadequacies in managerial structure and control.

SENATOR LAUTENBERG: To what degree, in other words, do your activities compensate for systemic managerial weaknesses in the Department?

ANSWER: As we mentioned previously, we have increased audit coverage in some highly vulnerable areas such as imprest funds and duplicate payments, but audit oversight cannot compensate for poor internal controls and weak accounting systems. Corrective systematic improvements, such as the DAFIS accounting project, must be made.

PRIORITY REFORMS

SENATOR LAUTENBERG: What, in your judgment, is the most serious weakness or inadequacy in the Department's current internal control and accounting systems?

ANSWER: The most serious internal control weakness and inadequacy which has been reported under the FIA as a Departmentwide problem the past 3 years is associated with Departmental ADP systems. The most serious accounting systems problems are in Coast Guard, UMTA and OST.

SENATOR LAUTENBERG: What, in other words, is the most urgent managerial reform that the Department could implement?

ANSWER: The most urgent internal control reform needed is the area of general and application controls over the ADP elements of the overall control system, including automated accounting systems. The DAFIS project must be implemented to correct the accounting system problems.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

STATEMENT OF M. CYNTHIA DOUGLASS, ADMINISTRATOR

ACCOMPANIED BY GEORGE NESTERCZUK, DEPUTY ADMINISTRATOR

PREPARED STATEMENT

Senator ANDREWS. Our next witness is Administrator Cynthia Douglass. We are glad to have you, Cynthia.

Let me again state that we have had your testimony. We have digested it. We can assure you that it will appear in the record as though you uttered every word. We are glad to have you summarize or just go to questions, at your volition.

Ms. DOUGLASS. Did you say that I could summarize my statement?

Senator ANDREWS. You can summarize it if you want to, or you can assume that since it is already in the record you can just go to questions.

Ms. DOUGLASS. Well, that would be fine with me.

[The statement follows:]

STATEMENT OF M. CYNTHIA DOUGLASS

Good morning. I am pleased to be here today to present the President's budget request for the Research and Special Programs Administration (RSPA) for Fiscal Year 1987.

This request reflects Secretary Dole's commitment to a safe and efficient transportation system—a commitment which I wholeheartedly share. We are requesting an appropriation of $20,024,000 for FY 1987 as compared to our FY 1986 appropriation after sequestration of $18,470,000.

Currently, RSPA has responsibility for the following programs:

- o Office of Hazardous Materials Transportation (OHMT) - OHMT is responsible for a national safety program to protect against risks to life and property inherent in the transportation of hazardous materials in commerce (other than bulk transportation on board vessels).
- o Office of Pipeline Safety (OPS) - OPS is responsible for the development and enforcement of regulations necessary to ensure the safe transportation of hazardous liquids and natural gas by pipeline.
- o Transportation Systems Center (TSC) - TSC's mission is to provide research and analysis support to all of the DOT operating administrations, the Office of the Secretary and other Federal agencies.
- o Aviation Information Management (AIM) - The AIM program provides consistent and comprehensive air carrier financial and statistical data

that portrays the results of operations in the air transportation industry.

- Transportation Safety Institute (TSI) (in the Office of Program Management and Administration) - TSI conducts comprehensive training programs in transportation safety and security for Federal, State, and local government officials involved with all modes of transportation; e.g., training state truck safety inspectors.
- Office of Emergency Transportation (OET) - OET's responsibility is to assure there is an organizational structure and procedures for the continued viability of the Department as well as the operation of this country's civil transportation system in the event of a national emergency.
- Communication and Radionavigation (Telecommunications) (in the Office of Program Management and Administration) - RSPA coordinates Departmental policy and research and development of civil and military radionavigation systems for use by land, air and marine users.
- Statistics, Data, and Information (in the Office of Program Management and Administration) - RSPA has the general responsibility for planning, developing, and coordinating a comprehensive transportation statistics and information program.

A chart of the current RSPA organization is attached as Appendix A.

RSPA's FY 1987 budget request represents a slight increase over the FY 1986 programs after sequestration. Some significant highlights are:

- An increase in staff (12) and budget of $1,104,000 in the Office of Hazardous Materials Transportation. The increase allows RSPA to update, republish and distribute the Emergency Response Guidebook during 1987.
- A decrease in staff (15) and budget of $632,000 for the Office of Aviation Information Management which reflects a realignment of the data collection function, reimbursement through charges assessed to users of the data, and the termination of the essential air service program.
- Defederalization of the Transportation Systems Center in Cambridge, Massachusetts, by April 1987.

In addition to our FY 1987 budget package which is before the Committee today, RSPA intends to send to Congress a legislative package which would authorize RSPA to collect "user fees" for the pipeline safety program and to merge the funding of the Natural Gas and Hazardous Liquid Pipeline Safety Grant-in-Aid Programs.

In FY 1986, RSPA has underway several significant projects which I will highlight for the Committee. First, Congress cut the staff of the Office of Aviation Information Management by six in FY 1986. Therefore, a significant project will be the realignment of AIM. Further, the Congress directed RSPA to study the concept of charging fees to users of the aviation information data. We were also directed to study "contracting out" the aviation information data collection function. These efforts are well underway and, in fact, RSPA is in the process of "contracting" with the Transportation Systems Center in Cambridge, Massachusetts, to collect the data.

Second, in late FY 1985 and into FY 1986, RSPA reorganized the Materials Transportation Bureau (MTB) which had responsibility for both hazardous materials transportation and pipeline safety. In place of one Office Director reporting to the Administrator of RSPA on both hazardous materials transportation and pipeline safety, we now have one Office Director for hazardous materials transportation and one for pipeline safety with both Directors reporting to the Administrator. This change has two distinct advantages. First, I believe this organization permits the Administrator to give more attention to each program area. Second, each program area has one person whose entire focus is on that area. I can testify to the new enthusiasm and energy that this reorganization has brought to these important areas.

The reorganization also permitted me to provide for an increased number of staff for hazardous materials transportation. Under the FY 1986 budget, RSPA had administrative staff which were arbitrarily divided between hazardous materials transportation and pipeline safety. The breakdown was as follows: Hazardous Materials Transportation (62) and Pipeline Safety (49). Under the reorganization, we moved three staff positions to hazardous materials and one to the Chief Counsel's Office for hazardous materials transportation enforcement purposes. This resulted in

65 staff positions for hazardous materials transportation and 45 for pipeline safety. This reorganization is also consistent with the conference report for the FY 1986 budget which directed RSPA to reduce MTB by three and add three to the hazardous materials transportation enforcement area.

Another hazardous materials project well underway in FY 1986 is the Federal/State workshops on hazardous materials transportation. RSPA plans three areas of Federal/State workshops. One of workshops will focus on hazardous materials transportation. A second set will focus on emergency response, and a third on nuclear transportation. Cooperative Hazardous Materials Enforcement Development (COHMED) workshops begin March 10 in Nashville. There will be four workshops held in conjunction with the Federal Highway Administration's (FHWA) Bureau of Motor Carrier Safety (BMCS). We plan these regional workshops as annual events. The emergency response workshops are underway and are being held in conjunction with FEMA and EPA. The nuclear transportation workshops will be organized similarly to the COHMED workshops and will be held in conjunction with DOE and, hopefully, other Federal agencies. Dates are not yet set. These cooperative workshops are, I believe, very important to a successful Federal/State hazardous materials transportation program.

Another significant accomplishment in FY 1985 and FY 1986 is the issuance of a final rule for liquids toxic by inhalation and a NPRM for cargo tanks. In the pipeline safety area, we issued a final rule extending the applicability of the Federal interstate liquid pipeline regulations to intrastate lines.

Office of Hazardous Materials Transportation (OHMT)

RSPA is requesting an appropriation of $6,706,000 to carry out the hazardous materials transportation program. This figure includes $5,956,000 for operations and $750,000 for research and development. It reflects an increase of 12 positions and increased dollars. These increases are consistent with recommendations of Secretary Dole's Safety Task Force which reviewed the hazardous materials program. A description of the positions requested is in our FY 87 budget submission.

The safety record for the transportation of hazardous materials in the United States has been very good. Last year, of the 5,900 incidents nationwide involving hazardous materials transportation there were 11 fatalities and 252 injuries. A chart of incidents occurring since 1974-1985 is attached as Appendix B1.

I am committed to ensuring that this excellent safety record continues. The budget for FY 1987 will allow RSPA to continue the following safety programs:

(1) Collection of safety data;

(2) Enforcement of safety regulations and coordination of activities of all modes relating to hazardous materials transportation enforcement;

(3) Continuation of rulemaking;

   (a) cargo tank specifications,

   (b) performance oriented packaging standards,

(c) recodification of DOT's explosive regulations,

(4) Support for training of Federal and State hazardous materials transportation safety inspectors at TSI via RSPA's budget and the Motor Carrier Safety Grants authorized in the 1982 Surface Transportation Assistance Act;

(5) Federal/State workshops on hazardous materials transportation;

(6) Republication and distribution in 1987 of an Emergency Response Guidebook; and

(7) Continuation of hazardous materials safety research and development.

A more detailed description of our hazardous materials program follows.

A major responsibility of OHMT is the development and issuance of regulations governing hazardous materials transported by all modes (with the exception of standards developed by the U.S. Coast Guard for bulk transportation by vessel). Our budget request for FY 1987 allows RSPA to continue essential rulemakings on performance oriented packaging standards, cargo tank specifications, and recodification of the explosives regulations.

Our ongoing program of regulatory revision and reform is highlighted by our commencement of a pre-rulemaking examination of the current standards for the transportation of explosives. We are looking at the issues involved in a complete revision of the standards to make them consistent with international shipping standards. Additional rulemaking reforms under active consideration are in the following areas: collection and reporting of data on hazardous materials incidents, regulation of reportable quantities of hazardous substances, and transportation of trailers, and other hazardous materials containers by rail.

The OHMT is responsible for enforcement of regulations applicable to multimodal transportation of hazardous materials. The primary emphasis is on enforcement of regulations applicable to manufacturers, reconditioners and retesters of DOT specification containers and multimodal shippers of hazardous materials. However, we also work closely with the other modal administrations and other organizations to assure compliance with the operating requirements applicable to the movement of hazardous materials. For example during the last calendar year, we conducted several joint operations with the U.S. Coast Guard at port facilities, inspecting import and export shipments of hazardous materials and participating in its freight container inspection program. In addition, we assisted the Office of the Inspector General, General Services Administration, in conducting a criminal investigation of retesters of compressed gas cylinders, and the Arizona Department of Public Safety on investigations involving cylinder retesters and fireworks. Finally, we conducted pre-departure inspections of spent nuclear fuel shipments at Calvert Cliffs, Maryland, and Surrey, Virginia; we assisted the Federal Railroad Administration in conducting a spent nuclear fuel inspection at Cooper Station, Nebraska; and we participated with the State of New York and the BMCS in conducting a pre-departure inspection of a spent nuclear fuel shipment from the Brookhaven National Laboratory, Long Island, New York.

A key to the effectiveness of our enforcement efforts has been RSPA's interaction with the States. In FY 1986 we initiated with the BMCS the COHMED workshops. This series of regional workshops continues the working relationships we have developed under the State Hazardous Materials Enforcement Development (SHMED) program. Through these workshops, the Federal and State people responsible for hazardous materials transportation can share information regarding regulations, training, interpretations, enforcement, and research which will assure a better regulatory scheme and more uniformity. Both goals provide the public with an increased level of safety. We will also initiate a series of workshops focused on the issues of nuclear transportation. In addition, we have worked with FEMA and EPA to co-sponsor workshops on emergency response.

Another key to better enforcement and to uniformity is the training of State enforcement personnel at TSI. In FY 87, RSPA is requesting $185,000 for partial funding of RSPA sponsored hazardous materials training at TSI in Oklahoma City. This funding level will cover about half of the cost of the hazardous materials training planned for FY 87 and is predicated on collecting tuition from States and other participants. The State share of funding for training can be substantially met through dollars received from MCSAP, a Federal grant program carried out under the Surface Transportation Assistance Act. However, in order to be able to use tuition fees to provide funding support for our TSI training effort, the President's budget proposes specific language permitting the fees to be credited to our appropriation.

Such language appears in other DOT Administrations' appropriations. In FY 87, RSPA plans to sponsor 56 classes in six areas of hazardous materials for 1,880 students. In FY 87 training will be provided to 380 Federal employees and 1,500 State and local government employees. In FY 1986 RSPA will be able to train only 1,200 persons (approximately) because it did not receive authority to apply tuition fees to operation of the TSI program.

To meet the growing demands by local and State officials for emergency response information, and to accommodate technical changes, RSPA is revising and updating the 1984 Emergency Response Guidebook (ERG) for publication and distribution in 1987. This guidebook is designed to aid first responders — firefighters, police and other emergency service personnel — at hazardous materials accidents. It provides a listing of hazardous materials and recommends actions to be taken during the initial phases of an accident. The ERG is part of the Department's continuing effort to provide local organizations with specialized technical information which is critical to a successful emergency response. We are specifically requesting funds for printing and initial distribution of the 1987 edition.

As an important resource in support of our regulatory and enforcement programs and the development of emergency response preparedness, I strongly support the use of advisory committees. Last year, the DOT's National Hazardous Materials Transportation Advisory Committee (NHMTAC) began operations. Its principal tasks are to provide information, advice, and recommendations on matters relating to all aspects of hazardous materials transportation and Federal, State, and local government roles and relationships. Currently the Committee is considering recommendations in three major areas: prevention, emergency response and information exchange. I expect these recommendations to be finalized shortly. The Committee is a valuable resource providing a non-Federal perspective for identifying issues of common concern, evaluating approaches and solutions and communicating recommendations.

New responsibilities have also been imposed on the Department by the Nuclear Waste Policy Act of 1982. In accordance with that Act, the Department is a primary contributor to the resolution of transportation issues concerning the movement of spent fuels from the point of generation to repositories.

Finally, let me summarize the status of two important studies undertaken by RSPA at the request of Congress.

(1) Joint FEMA/DOT Study - This study evaluates programs conducted by Federal/State/local governments and the private sector which provide training for compliance, enforcement, and emergency response and which provide planning for emergency preparedness. The study will enable the two agencies to make recommendations on mechanisms to assure long-term continuity in funding.

Respective project offices of DOT and FEMA have been coordinating throughout the study. The final report should be submitted to Congress shortly.

(2) Study to assess data collection approaches. This study assesses various

alternative approaches to data collection by State and local governments. Recommendations will be sent to Congress.

This work is performed with the cooperation of the DOE. The analytical work is now complete. Comments from State and local officials on a draft report have been solicited and received. The final report to Congress should be submitted in March.

Office of Pipeline Safety (OPS)

RSPA is requesting an appropriation of $8,116,900 to carry out the pipeline safety program. This figure includes $2,991,900 for operations and $625,000 for research and development. We are requesting $4,500,000 for the Natural Gas Pipeline Grant-in-Aid Program. We are also recommending a merger of the natural gas pipelines and hazardous liquid pipelines grants-in-aid.

Pipelines are our safest transportation mode. RSPA's responsibility for safety regulation of natural gas pipelines involves more than 2,300 operators of a gas pipeline network of more than 1.5 million miles. The responsibility for hazardous liquid pipelines involves over 385 operators and more than 250,000 miles of pipeline which transport petroleum, petroleum products and anhydrous ammonia. Last year, of the 331 natural gas pipeline failures occurring nationwide, there were 26 fatalities and 106 injuries. Of the 190 hazardous liquid pipeline failures nationwide, there were 5 fatalities and 18 injuries. Charts of incidents occurring since 1974 for natural gas and hazardous liquids are attached as Appendix C1 and C2.

In 1968, Congress passed the Natural Gas Pipeline Safety Act providing that DOT establish safety regulations for facilities used in the transportation of natural gas and other gases by pipeline. In 1979, the Department's authority was extended to the transportation of hazardous liquids by pipeline.

Both Acts set up State grant-in-aid programs to provide for State enforcement of the pipeline safety rules. The success of the natural gas and hazardous liquid pipeline safety programs is reflected by the fact that generally there has been a downward trend in the number of pipeline accidents since 1980. Of the accidents that have occurred, the most common cause of the more serious ones has been third-party damage, usually by excavation activity beyond the pipeline operator's control. To address this problem, the pipeline regulations now require operators to participate in a utility locator system so that persons contemplating excavation can use the "one-call" utility locator to receive information on the exact location of pipelines in that area. We have also been working with the States to pass State legislation requiring excavators to use the one call system.

In FY 1987, we intend to continue rulemakings reviewing the natural gas and hazardous liquid safety requirements, materials requirements, pipe design and component design for both gas and hazardous liquid pipelines. Among these, we have identified reviewing the safety standards incorporated by reference (these standards are improved on a continuous basis as new technology is developed) as an important rulemaking in FY 1987.

We receive advice on proposed regulatory changes from our technical advisory committees. As required by statute, the two technical pipeline safety standards committees (gas and hazardous liquid) meet to review proposed regulatory changes, additions, or deletions. Both committees meet individually on upcoming pipeline regulations and then meet jointly to assist me in reviewing studies and recommendations that affect our pipeline safety program. I believe these meetings set an example of how important this type of advice can be to a Government program.

The members of these committees are widely respected pipeline safety experts from industry, the Government, and the public sector. They have given a great deal of their time to this pipeline program. Their advice allows us to have a far more effective pipeline safety program. The benefits are worth far more than the relatively few dollars we spend bringing these people together.

The Federal/State partnership in the natural gas safety regulatory and enforcement arena has worked well. In fact it serves as a model for our Federal/State workshops on hazardous materials transportation. Forty-seven States have developed safety programs by adopting Federal pipeline safety regulations and enforcing them with substantially the same sanctions as those employed by the Department. Three states have adopted the regulations and inspect operators for compliance with enforcement actions arising therefrom being referred to the Department for action. The $4.5 million in grants being requested is $193,500 more than the level of funding appropriated (after sequestration) for FY 1986. Twenty-nine of the States are receiving maximum (up to 50%) funding of their program costs. Thirty-four states are receiving at least 40% of their program costs. I believe that maintaining assistance at this level will continue the effectiveness of the program.

There has been a change in the way the grant dollars are distributed by DOT that warrants mention. When the Natural Gas Pipeline Safety Act was originally passed in 1968, one of the objectives was to further Federal uniformity in pipeline safety regulations and enforcement. The grant program was set up to encourage the States to adopt and enforce the Federal regulations.

Therefore, there were essentially no strings attached to the grants. Now that 48 States plus the District of Columbia and Puerto Rico have essentially adopted the Federal regulations, it is felt by many that the Federal Government should set some basic criteria to encourage States to improve their programs.

RSPA, therefore, distributed the $4,306,500 appropriated in 1986 as follows: $3.2 million was distributed as it has been in the past; the remaining amount was distributed according to certain basic criteria designed to assure an adequate level of safety. The criteria used by RSPA were: participation status, jurisdiction, inspector qualifications, recommended number of inspectors and recommended number of inspection person-days, and third-party damage prevention program. The latter was added this year. Use of this modified formula for allocation of grant money has the advantage of encouraging States to upgrade their program.

For pipeline safety research and development, the funding level requested is $88,000 more than the level of funding appropriated after sequestration for FY 1986. During 1985, a cooperative research program was initiated with a number of private and public organizations, greatly extending the research capabilities of RSPA. Six specific projects were initiated or continued from prior years. Ongoing projects are: LNG vapor dispersion prediction and mitigation methodologies; assessment of girth weld defect tolerance methodologies; assessment of the yield/tensile ratio as a measure of toughness and ductility of steels for pipelines; stress corrosion cracking of line pipe steels; assessment of cathodic protection criteria for carrier pipe in casings, and assessment of long-term degradation of cast iron pipe. The completed projects are: pipeline safety testing/inspection methods study; and the transport of methanol by pipeline; and the mandatory use of quality assurance programs by interstate operators.

Finally, studies undertaken at the request of Congressional representatives or Committees are summarized as follows:

(1) Study of a Pipeline Safety Account - This study, released in December, concluded that substantial benefits accrue to the pipeline industry from the Federal pipeline safety program. It was recommended that the natural gas and liquid transmission companies be assessed a fee for a pipeline safety account to cover the total Federal costs of the program, and that cost control mechanisms be established to prevent program growth beyond that intended by Congress.

(2) Methanol Pipeline Study - Study of issues relating to the transportation of methanol through interstate liquid pipelines. The study examines the economics and engineering of such transportation; and any associated environmental, health and safety problems.

The report on the study was completed and was forwarded to Congress in April 1985.

(3) Pipeline Safety Testing/Inspection Methods Study - Study of the feasibility of, and costs connected with, requiring various methods of testing and inspecting hazardous liquid pipeline facilities, including new technologies available for monitoring from the outside or the inside the condition of such facilities. I expect the report to be forwarded later this month.

(4) Study to identify and inspect potentially hazardous interstate pipeline transmission facilities constructed before 1940 - This report was sent to Congress in October 1985. The conclusion reached is that such pipelines do not presently create any special risk to public safety.

(5) Study of the alignment of pipeline safety regulatory responsibilities among various levels of government - The bulk of the analysis effort on this study to examine possible additional pipeline activities to be included in a regulatory program, alternative alignments of governmental responsibilities, and legislation and funding of impacts of the alternatives, has been completed. The draft report is under internal review.

(6) Study of Hazardous Liquid Storage Facilities - In this study the safety performance of the facilities incidental to pipeline transportation have been reviewed. The potential risks associated with these facilities, which are not currently regulated under Part 195, were examined to determine if they pose a sufficient threat to warrant regulation. Again, this report has been drafted and is undergoing internal review. I expect it to be released next month.

(7) Study to evaluate benefits and costs of establishing a mandatory quality assurance program for interstate pipeline operators - This study was finalized this month. It was concluded that mandatory quality assurance programs are not cost beneficial, and that they would not enhance safety.

(8) Study of Pipeline Safety Grant Allocation and Merger - This study focuses on merging the natural gas and hazardous liquid pipeline grants, and on the allocation formula used to administer the grant funds. It is expected that it will be released in April.

Transportation Systems Center (TSC)

TSC, located in Cambridge, Massachusetts, is the Department's multimodal research, development, systems engineering and applied analysis center. It provides support to the Office of the Secretary, the DOT operating administrations, and other Federal agencies requiring assistance with transportation-related issues. The FY 1987 budget would provide 239 total FTE's for TSC, compared to a current total FTE level of 525. This staffing reduction primarily reflects the FY 1987 budget proposal "that activities of TSC be carried out by contract with a non-Federal entity after April 1, 1987". The 239 FTE level also reflects staff reductions made on the basis of Departmental priorities. As in prior years, no dollar amount is requested in the FY 1987 budget because TSC is funded through a Working Capital Fund. This fund is financed through negotiated agreements with the Office of the Secretary, DOT's operating administrations, and other governmental elements requiring the Center's capabilities. In FY 1985, TSC funds available for obligation reached $104 million. In the current fiscal year, the funds available for obligation are estimated at this time to be about $89 million.

Aviation Information Management (AIM) - AIM is the office within RSPA that was created as a result of the transfer of certain programs and activities from the sunsetted Civil Aeronautics Board.

The AIM program provides the data, informational resources and support services necessary for the DOT to make informed and timely decisions concerning operations of air carriers in the air transportation industry. Current DOT users of the basic data and products and services of this aviation information program include: 1) the FAA (safety surveillance and analysis, airport development funds allocation, airport policy development, and airway facilities requirements forecasting), and 2) the Office of the Secretary (industry monitoring and international policy development including negotiation of routes, carrier selection and fares and rates, fitness the economic and operational aspects of the air transportation industry. It is also used by other government agencies, including: Commerce, Labor and Air Force. The airline capacity, traffic, and industry cost information is also of substantial value to non-Federal users such as aircraft manufacturers, air carriers, airports, researchers, the travel industry, and the traveling public.

In FY 1986 we realigned the AIM program to establish a cooperative effort between the Government and the private sector. Full implementation is anticipated beginning in FY 1987. We did this to provide a mechanism to offset recurrent program operating costs with user payments from those who benefit from the aviation data, including both Federal and non-Federal sources. Under the realignment the AIM regulatory functions are provided for in this budget request. They include 1) identifying DOT data requirements; 2) prescribing and enforcing necessary air carrier reporting, and 3) policy oversight and guidance of the aviation information processing activities. Also under the realignment the AIM non-regulatory functions are now performed by resources under the TSC Working Capital Fund. This enables us to match ongoing and one time aviation data services with user charges on a reimbursable basis. Functions include: 1) data collection, 2) data verification and processing, 3) data dissemination, and 4) special servicing.

The FY 1987 budget request for the AIM operation funds is $712,650. The budget request anticipates the first full year operation of the new, reimbursement approach to the program. It represents staff savings of 60% and almost 50% in funds.

Transportation Safety Institute (TSI) - TSI, located in Oklahoma City, Oklahoma, conducts comprehensive training programs in behalf of sponsoring Federal agencies in transportation safety and security for Federal, State, and local government officials involved with all modes of transportation; e.g., training State truck safety inspectors. The FY 1987 budget request is for two staff positions and the funding for compensating these individuals. No other program dollars are requested. TSI is similar in funding to TSC in that it staffs and funds its program activities through reimbursable agreements with the Office of the Secretary, the DOT operating administrations, and other Federal agencies. For example, the training of State motor carrier safety inspectors is funded by the Federal Highway Administration (FHWA), while airport security directors training is funded by the Federal Aviation Administration (FAA) (domestics) and Department of State (DOS) (internationals).

Office of Emergency Transportation (OET) - OET executes the Secretary of Transportation's statutory and administrative responsibilities in the area of civil transportation emergency preparedness. OET prepares, coordinates, and implements all plans, policies, and programs including providing policy guidance and direction to those elements of the Federal transportation community outside of the Department required to maintain a high state of emergency preparedness. This Office develops and conducts simulated civil and joint civil/military exercises and training courses to address transportation-related problems that would be encountered in national or regional emergency situations. OET is continuing to develop reliable emergency telecommunication capabilities for the Department and concerned members of the Federal Transportation communities to enable continued transportation operations in the event of regional and national crises including war.

Another important OET activity is to provide for prompt and effective Federal transportation community response planning in the event of natural disasters, such as volcanoes, earthquakes, and man-made crises including labor disturbances, which adversely impact the nation's civil transportation system. Further, OET has developed a continuous program which measures the impact on the civil transportation system resulting from both civil and military services demands, and the capacity of other systems to meet these demands.

DOT is requesting FY 1987 operations funds in the amount of $731,750 to support this activity and research and development funds in the amount of $230,000.

Communications and Radionavigation (Telecommunications) - RSPA is responsible for coordinating U.S. radionavigation systems; assessing the civil use of the Global Positioning System (GPS) which is currently being used for military navigation purposes and exploring alternatives to GPS for civil use. The DOT is requesting $450,000 in research and development funding for FY 1987. FY 1986 funding resulted in the completion of public hearings of the current Federal

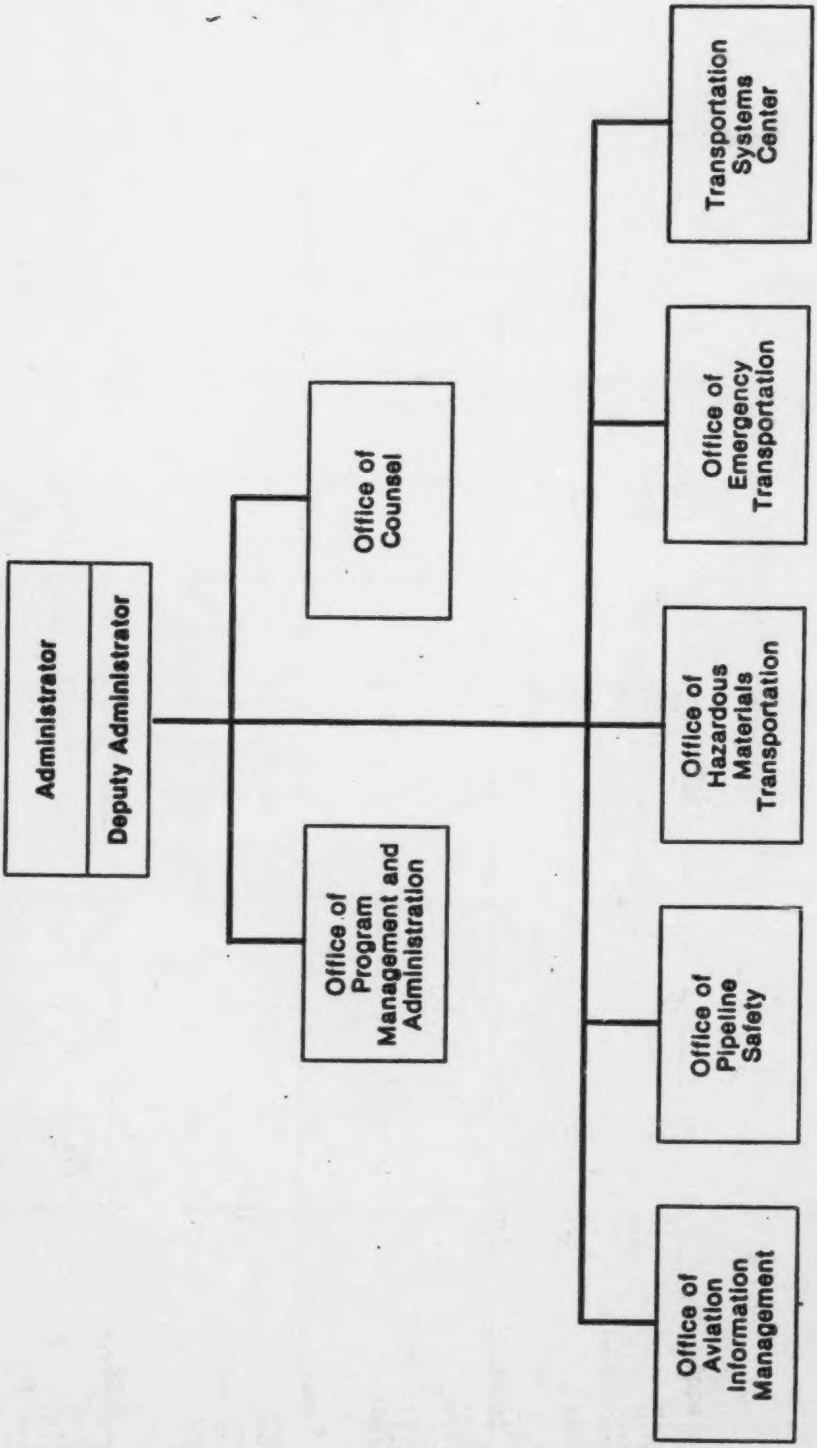
Radionavigation Plan and testing for the GPS. FY 1987 funding will emphasize total integration of the system.

Statistics Data and Information - RSPA has the responsibility within DOT for the development, collection, analysis, and dissemination of technological, statistical, economical, safety, and other types of transportation data. $150,000 was requested in FY 1987.

That completes my testimony in support of RSPA's FY 1987 appropriation request.

APPENDIX A

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION


Administrator
Deputy Administrator
Office of Counsel
Office of Program Management and Administration
Transportation Systems Center
Office of Emergency Transportation
Office of Hazardous Materials Transportation
Office of Pipeline Safety
Office of Aviation Information Management

APPENDIX B1

SAFETY STATISTICS BY MODE BY REPORTING YEAR

INCIDENTS

MODE	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985*
Air	137	132	90	130	231	284	233	160	97	66	104	89
Highway	7,612	9,891	10,772	14,250	16,548	15,978	14,484	7,704	5,447	4,829	4,307	4,720
Railway	616	676	982	1,500	1,191	1,213	1,327	1,131	831	851	963	818
Water	26	32	13	30	47	34	42	7	9	13	11	7
Freight Forwarder	2	6	11	20	5	2	1	3	6	1	120	261
Other	13	12	21	0	0	11	28	58	3	1	7	5
TOTALS	8,408	10,749	11,889	15,930	18,022	17,524	16,115	9,063	6,393	5,761	5,512	5.900

FATALITIES

MODE	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
Air	4	0	0	0	0	0	0	0	0	0	0	0
Highway	18	27	16	31	20	18	17	27	12	8	6	11
Railway	10	0	2	1	26	0	2	0	0	0	0	0
Water	0	0	0	0	0	0	0	0	0	0	1	0
Freight Forwarder	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	32	27	18	32	46	18	19	27	12	8	7	11

INJURIES

MODE	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
Air	5	6	4	9	43	13	8	7	0	0	12	4
Highway	281	487	617	507	594	697	481	397	93	122	140	184
Railway	596	96	198	233	482	228	129	221	36	69	69	63
Water	17	2	1	0	10	1	1	0	1	0	18	0
Freight Forwarder	4	15	0	0	1	0	1	0	0	0	3	1
Other	0	31	0	0	0	2	2	18	0	0	0	0
TOTALS	903	633	820	749	1,130	941	622	643	130	191	242	252

DAMAGES ($'s)

MODE	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	198
Air	4,311,708	9,139	20,312	28,686	6,836	30,312	12,686	6,660	28,001	51,575	554,326	9,07
Highway	4,774,136	5,602,616	5,674,565	8,628,651	11,259,906	8,925,269	7,323,628	12,673,481	11,409,130	9,052,062	13,352,817	12,912,88
Railway	11,963,163	1,481,995	2,294,633	7,815,293	6,848,364	5,751,500	2,834,030	2,632,827	4,083,193	2,590,747	3,376,817	13,088,93
Water	20,117	6,331	3,270	18,238	17,912	30,364	507,427	33,045	30,000	80,088	513,517	6,48
Freight Forwarder	0	3,343	405	331	160	0	100	6,500	33	200	10,023	13,94
Other	13,033	182	3,788	9,700	0	5,100	29,366	69,108	200	16,900	975	380
TOTALS	21,284,139	7,103,626	7,999,173	16,500,885	18,133,176	14,772,543	10,707,037	15,461,621	15,550,561	11,791,572	17,808,475	26,031,910

APPENDIX C1

SUMMARY OF GAS PIPELINE ACCIDENTS AND CASUALTIES REPORTED FROM 1974-1985
AS REQUIRED BY 49 CFR PART 191

	Distribution			*Transmission and Gathering*			*Total*		
Report Year	*Failures*	*Fatalities*	*Injuries*	*Failures*	*Fatalities*	*Injuries*	*Failures*	*Fatalities*	*Injuries*
1974	1,017	20	314	460	4	20	1,477	24	334
1975	979	8	220	394	6	17	1,373	14	237
1976	1,036	53	319	543	10	47	1,579	63	366
1977	1,530	29	420	466	7	30	1,996	36	450
1978	1,555	20	320	533	11	86	2,088	31	406
1979	1,520	33	313	450	12	93	1,970	45	406
1980	1,467	9	269	529	2	41	1,996	11	310
1981	1,128	10	73	495	6	6	1,623	16	79
1982	1,191	20	225	520	11	41	1,711	31	266
1983	1,127	10	220	453	2	25	1,580	12	245
1984	747	26	189	255	9	40	1,002	35	229
1985	204 *	20	94	127 *	6	12	331 *	26	106

NOTE: *On May 3, 1984, regulations were adopted which changed the definition of "incident" as follows: eliminated the requirement to report when taking any segment of a transmission pipeline out of service; eliminated the requirement to report if gas ignited; increased the level of estimated property damage from $5,000 to $50,000.

APPENDIX C2

SUMMARY OF LIQUID PIPELINE ACCIDENTS AND CASUALTIES FROM 1974 TO 1985

Year	*Failures*	*Fatalities*	*Injuries*	*Total Commodi Loss (bbl.)*
1973	273	7	10	377,672
1974	256	10	6	292,001
1975	254	7	17	318,278
1976	212	5	4	249.690
1977	237	3	15	224,794
1978	256	3	10	280,794
1979	251	4	13	548,669
1980	219	3	12	289,445
1981	239	5	32	214,384
1982	200	1	6	221,411
1983	161	6	9	384,670
1984	203	0	19	292,126
1985	190	5	18	184.899

BIOGRAPHICAL SKETCHES

ALAN I. ROBERTS

ALAN I. ROBERTS is the Director, Office of Hazardous Materials Transportation, of the Department of Transportation's Research and Special Programs Administration in Washington, D.C. He is a graduate of Penn State and spent four years in the Air Force. Prior to his employment by the Department of Transportation in 1967, Mr. Roberts served as a Safety Inspector with the Interstate Commerce Commission and was Vice President of a motor carrier in Pennsylvania. Except for a short tour of duty with the National Transportation Safety Board, Mr. Roberts has been primarily in work related to hazardous materials transportation since 1967. He became Director of the Office of Hazardous Materials Operations in July 1975. He serves as the United States representative to the United Nations Committee of Experts on the Transport of Dangerous Goods and has been Chairman of the Committee since 1980.

ROBERT L. PAULLIN

Mr. Robert L. Paullin is the Director, Office of Pipeline Safety, Research and Special Programs Administration (RSPA), Department of Transportation. He is responsible for the pipeline safety regulations, enforcement, research and training programs of RSPA. He manages the headquarters and field staffs, and 5 million dollars in Federal grant funds as part of a Federal/State Pipeline Safety Partnership Program. His activities include numerous cooperative ventures with Federal and State organizations.

Mr. Paullin has had over 30 years in the fields of transportation and administration. His early experience includes a tour as a USAF pilot, and a flight test and research engineer with the Douglas Aircraft Company. He has managed programs in flight safety, environmental engineering, R&D policy, hazardous materials transportation, and pipeline safety.

Mr. Paullin holds an undergraduate degree in mechanical engineering, a graduate degree in civil engineering, and a Doctorate in Public Administration from the University of Southern California. He is a professional engineer and a commercial pilot. He lives with his family in Burke, Virginia, and is active in national and local professional and civic organizations.

Louis W. Roberts, Director, Transportation Systems Center

Louis W. Roberts is Director of the Transportation Systems Center (TSC), the U. S. Department of Transportation's Research and analysis facility for air, highway, rail, pipeline, and marine transportation. He was named to this office by the Research and Special Programs Administrator in February 1985.

Mr. Roberts joined TSC when the Center opened in 1970. In his 14 years at TSC, Mr. Roberts has held most of its top managerial positions including that of Deputy Director; Director of the Office of Technology, Energy and Environment, Director of the Office of Operations Engineering; Director of the Office of Data Systems; and Director of the Office of Administration. Before joining TSC, from 1966 to 1970, he was chief of the Optics and Microwave Laboratory at the Electronics Research Center of the National Aeronautics and Space Administration (NASA). Prior to joining NASA, he had extensive high-tech and R&D experience throughout the 1950's and 1960's in positions at Massachusetts Institute of Technology (M.I.T.), Sylvania Electric, Bomac Laboratories, and as a founder and president of Microwave Associates, located in Burlington, Massachusetts.

Mr. Roberts was graduated from Fisk University, received a M.S. degree from the University of Michigan, and completed additional studies at the Universty of Michigan and M.I.T. Before turning to business and government, he was a professor of physics and mathematics at St. Augustine's College in Raleigh, North Carolina.

ROBIN A. CALDWELL, DIRECTOR
OFFICE OF AVIATION INFORMATION MANAGEMENT
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Mr. Caldwell is in charge of aviation information program activities transferred to the Department of Transportation from CAB beginning January 1, 1985. These activities provide the DOT with a body of economic facts about the financial and statistical results of air carrier operations. The facts are used in decisions in a variety of DOT air transportation programs. The functions include data requirements analysis, data collection and data processing.

Mr. Caldwell previously held responsible aviation information management positions with the Civil Aeronautics Board for 19 years. He was Chief, Information Management Division from 1979 through CAB's 1984 sunset. In this capacity he led the Board's reduction of its aviation data collections in view of deregulation. From 1975 to 1978 Mr. Caldwell was Assistant Director, ADP Planning for CAB's Bureau of Accounts and Statistics. He was Chief of CAB's Data Processing Division from 1966 to 1975.

Prior to joining CAB Mr. Caldwell held systems engineering and management analyst positions with the International Business Machines Corp., the National Institutes of Health, and Minneapolis Honeywell Corp.

Mr. Caldwell is a 1961 graduate of the University of Maryland with a BS in Education for Industry.

SAFETY REVIEW

Senator ANDREWS. The Secretary initiated safety reviews of each transportation mode. The safety report on Research and Special Programs was released in February of this year. It focuses only on the hazardous materials component of RSPA. Will an indepth study be performed on the pipeline safety program?

Ms. DOUGLASS. I do not believe that that is anticipated at this time. The task force considered doing pipeline safety and hazardous materials together, but decided that their efforts ought to go into hazardous materials. I do not know if at a later date they will pick up on pipeline safety or not.

Senator ANDREWS. Well, why are they postponing this or dropping it, so to speak?

Ms. DOUGLASS. The pipeline safety area?

Senator ANDREWS. Yes.

Ms. DOUGLASS. Well, I think—I am putting words in their mouths, but I believe that they have——

Senator ANDREWS. That is why you have got this responsible position, so you can put words in other people's mouths.

Ms. DOUGLASS. I believe that they felt that the pipeline safety area had just undergone a GAO review, and we had made a number of recommendations to implement that report, and they felt that the safety record was very good in pipeline safety, and generally they felt that there really was not as much of a need in that area as there might be in some other areas.

Senator ANDREWS. Of course, that safety study raised various concerns about the adequacy of hazardous materials regulation. First, the backlog of petitions for rulemaking was cited as a problem both in the 1978 and 1984 studies. This 300-petition backlog had not been improved upon.

What is the current backlog?

Ms. DOUGLASS. It is about 300. I do not like a backlog either. Let me describe a little bit why there is a backlog.

We get quite a few petitions for rulemaking every year, and the staff runs through those. And any rulemaking that we feel is a significant safety rulemaking we begin action on right away. We prioritize our rulemakings and take actions on those that we feel are necessary.

The other rulemakings just, unfortunately, remain on the docket. They are open rulemakings. Now I do not like that idea, and so we are in the process of taking action to clear the docket of rules. I believe that there are rulemakings on the docket that are approximately maybe 8 years old that we have not taken any action on, and we do not intend to take any action on. They simply have been left on the docket.

Senator ANDREWS. Well, shouldn't you close them out, then?

Ms. DOUGLASS. Yes, we should. I will be glad to give you a report on exactly our timeframes on that. But we do intend to take care of that problem, that large backlog.

Senator ANDREWS. Of course, we are concerned about the steps you have taken to adjust and reprioritize the existing staff's activity as recommended by the task force. It looks like you are moving in that direction. So if you could provide us further information.

Ms. DOUGLASS. Yes.

[The information follows:]

The attached RSPA Regulatory Agenda, as published in the Federal Register, lists all of our rulemakings currently in progress, and identifies Performance-Oriented Packaging Standards and Specification and Use Requirements for MC 306, MC 307, and MC 312 cargo tanks as our highest priority hazardous materials rulemaking actions. During March 1986, we assigned two additional staff to the Packaging Standards project to expedite development of a Notice of Proposed Rulemaking. If determined necessary following a review of comments to the Cargo Tank NPRM, a similar increase in assigned staff will be made. The additional staffing we have allowed for fiscal year 1986 will enable us to address these priority rulemakings, while continuing to deal with our overall regulatory workload.

With respect to the petitions backlog, RSPA implemented a program to return, without prejudice, all petitions for rulemaking received prior to January 1, 1985, requesting that the petitioners reevaluate the necessity of their recommended changes in light of rulemaking changes that have been adopted during the pendency of the petition. This action will not only create an immediate workload that is manageable, but with the staffing levels requested in fiscal year 1987 will enable RSPA to respond to new—or resubmitted—petitions in a reasonable timeframe.

[CLERK'S NOTE.—The RSPA Regulatory Agenda can be found in the Federal Register, Vol. 50, No. 209, Tuesday, October 29, 1985, page 44468.]

WOMEN IN KEY POSITIONS

Senator ANDREWS. For just a minute let me interrupt and point out, Madam Administrator, you know, in North Dakota we are extremely proud of the way our women run things, too. Just coming in is Lois Lang, who is the new president-elect of the North Dakota Broadcasters. So we want you to know the caliber of women we have in the administration is equal to, if not excelled by, the caliber of women we have in key positions back in North Dakota.

Lois, it is good to have you here.

Ms. DOUGLASS. I am all for it.

PRIORITIES

Senator ANDREWS. Along the same line, the task force recommends that RSPA establish a schedule and priority listing of hazardous materials regulatory priorities. Has this been instituted?

Ms. DOUGLASS. We informally as a staff do prioritize our rulemakings, and we do have various factors that we use to do that. But we have not formalized that process. We are going to formalize that and publish it in the Federal Register.

Senator ANDREWS. So you are going to do a rulemaking on that. But the thing that we wonder is how a petition for a rulemaking in such an important area can sit unaddressed as a priority for some 10 years.

Ms. DOUGLASS. Well, it would not be a priority with us if it sat for 10 years.

Senator ANDREWS. Well, can you assure us that if they sit that long they have been reviewed and they are no longer a key subject?

PERFORMANCE-ORIENTED STANDARDS

Ms. DOUGLASS. Yes; unless we have taken some action on them. For example, we do have an issue that has been before us for quite a while which actually is one of our very top priority rulemakings, and that is the performance-oriented standard rulemaking. That we began a number of years ago and we issued an advance notice of proposed rulemaking. We are very close to issuing a notice of proposed rulemaking. That area is a very extensive rulemaking and will be a complete change in our regulations.

And, as a matter of fact, we anticipate being able to, by going to performance-oriented standards rather than design, get rid of about 300 pages out of the Federal rules and regulations.

Senator ANDREWS. Well, we realize that, but the 1986 timetable for a final rule—that was in the safety report of 1986—is 2 years later than was established in last year's Senate testimony. This rulemaking was one of the priority responses after the Bhopal, India tragedy, and we wonder how come it has slipped another 2 years.

Ms. DOUGLASS. Well, that rulemaking has top priority within RSPA, and cargo tanks also has a very top priority. But I have pulled the staff together every few months to get an update on where we are, and the date does keep slipping. That is very frustrating. I asked if we can pull people from other modes who have experience. The answer is no. It is an extremely technical rulemaking. To bring anybody in at this date would just cause us to get further behind.

We do some research and analysis. It turns out that with research and analysis we need to do more research and analysis, and the date just keeps getting slipped further and further. But I have been assured——

ADDITIONAL STAFF

Senator ANDREWS. But the conferees gave you three extra positions so this additional slippage would not happen.

Ms. DOUGLASS. Let's see. I am sorry; I am not familiar with that. The three positions——

Senator ANDREWS. We gave you three extra hazardous materials positions because we were concerned about the slippage.

Ms. DOUGLASS. My understanding—on the performance-oriented standard?

Senator ANDREWS. In hazardous materials generally.

Ms. DOUGLASS. My understanding of the three positions—and if I am wrong I stand to be corrected—my understanding was that, in the reorganization of the Materials Transportation Bureau, we were to reduce MTB by three, which we did, and we were to take those three positions and put those into hazardous materials enforcement. And we have done that.

But we were not told to put those in rulemaking.

Senator ANDREWS. Well, that is fine as long as you can assure us that you are going to do this performance-oriented rulemaking in a timely fashion.

Ms. DOUGLASS. I can assure you that it has a top priority and we will do everything we can to move that rulemaking along.

Senator ANDREWS. And you feel that you have enough people on board, with these transfers and these changes, to get this accomplished in a timely fashion?

Ms. DOUGLASS. Well, in our budget we are asking in fiscal year 1987 for an additional 12 positions for the hazardous materials area, and about 7 of those will go into the rulemaking area, 2 into writing rules, 4 into the technical backup for the rules.

Senator ANDREWS. Well, the task force, as you know, estimated or recommended that you should allocate approximately 5 to 10 additional personnel to the regulatory area.

Ms. DOUGLASS. Yes.

Senator ANDREWS. So with this budget submission you are in effect doing that?

Ms. DOUGLASS. Yes.

Senator ANDREWS. And going along with the recommendation of the task force.

Ms. DOUGLASS. And we feel that the staffing level will do several things. It will allow us to concentrate in a more timely and efficient manner—a timely manner, anyway—on our priority rulemakings. It will allow us to reduce our docket, the 300 petitions.

Senator ANDREWS. Well, I do not want to put words in your mouth, Madam Administrator, but the task force recommended from 5 to 10. You have come up with 12. I would imagine that this would indicate to the subcommittee your concern for the timeliness of those rulemakings as well.

Ms. DOUGLASS. It does, and I appreciate your pointing that out.

Senator ANDREWS. Because in these days of tight budgets you would not have exceeded by 20 percent the maximum recommendation unless you too were concerned about their getting these things through on time.

Ms. DOUGLASS. We are.

HAZARDOUS MATERIALS SAFETY RECORD

Senator ANDREWS. You have all the right answers this morning.

Your statement claims an excellent hazardous materials safety record, yet in 1985 there were 11 fatalities, 252 injuries, 5,900 incidents involving hazardous material transportation. All of these statistics are up from 1983 and 1984. Furthermore, in 1985 damages totaled $26 million, an $8 million increase over 1984.

As the growth in hazardous material transportation continues, it appears more is going to have to be done. Other than adding people, what specific improvements will be accomplished in fiscal years 1986 and 1987 so we will flatten out this increase in incidents that we have been seeing?

Ms. DOUGLASS. Well, the statistics on hazardous materials transportation and on pipeline safety do fluctuate, but we do feel that overall there is a very good safety record. This year we will be doing a number of things and probably the most significant thing is the Secretary has requested for the Motor Carrier Safety Assistance Program a total of $50 million be allocated to that specific program.

That money is a grant, an aid program essentially, to the States. They will use that money to enforce the motor carrier laws and highway materials transportation laws on the highways. So we anticipate a far greater and far more extensive State police force out there enforcing the laws.

In addition to that, we are in the process of getting ready to start on March 10 our first hazardous materials workshop. We intend to hold these annually. They will be regional workshops where we get together with a number of States—7 to 10 States at one time—sit down in a room and just go over all of the State problems, the Federal problems, the regulations, the interpretations, and the R&D that we are doing, and see how we can be more responsive, and what problems the States are seeing that they would like for us to address.

I think that will have a tremendous impact on the State programs and on our Federal Uniform Hazardous Materials Program. I think that will help a significant amount.

GRANTS-IN-AID

Senator Andrews. Madam Administrator, your budget proposes the merger of the natural gas and hazardous liquid pipeline grant programs. Was a program level in excess of the current $4.5 million considered or requested?

Ms. Douglass. No; $4.5 million was what we requested.

Senator Andrews. Requested of OMB?

Ms. Douglass. Yes.

Senator Andrews. How can the same program level support both activities?

Ms. Douglass. Well, let me put that into perspective. The grant program goes to the States to support their inspection and enforcement of intrastate pipelines. In the United States there are about 1.2 million miles of natural gas pipelines. There are about 65,000 hazardous liquid lines. In the United States I think all the States have natural gas pipelines, whereas there are only 23 States with hazardous liquid lines.

We feel that $4.5 million is an adequate amount of money to fund the Federal share of the States' programs. We have been working with the States and have been talking with them regarding their programs and are satisfied that the States are doing a good job of enforcing the Federal regulations and we are pleased with that.

Senator Andrews. Are you sure that we will see no dimunition of the natural gas effort?

Ms. Douglass. Yes; I do not feel there will be a lessening of the natural gas program.

OREGON GRADUATE CENTER

Senator ANDREWS. You are in the catbird position; that is why we want to find out what you think about it. Next year we will be able to ask back what the record of performance has been, as you know. We are concerned in these areas because we want to make sure that the safety is not compromised by this putting of programs together and perhaps shortchanging one or the other.

Senate Report 99–152 contained in the RSPA section a directive for the Department to make available not to exceed $200,000 to undertake a collaborative effort with the Oregon Graduate Center to compile a welding fracture data base. What is the status of this project? One of the members, rather prominent members, of our committee is interested in this.

Ms. DOUGLASS. I thought you might be interested in that.

Senator ANDREWS. I thought you might realize that.

Ms. DOUGLASS. Well, we had several very important meetings within the Department of Transportation and the FRA is supposed to fund a little over $320,000 of a total of $830,000, I believe, and they have committed to that. The Federal Highway Administration is supposed to fund a little over, I think, $310,000. And they have committed to that.

Now, there is $200,000 that is supposed to come out of RSPA. Well, it could come out of RSPA. But we feel that to take money out of RSPA's R&D budget would really hamper our safety R&D. The Secretary does not want to see that happen, so we are having meetings within the Department to determine where we could come up with the $200,000.

Senator ANDREWS. But, interestingly enough, you hit that R&D to match your sequester.

Ms. DOUGLASS. You are right.

Senator ANDREWS. Now you are saying that it is so high priority that you cannot fund this project that the committee directed you to fund.

Ms. DOUGLASS. Well, let me explain the rationale.

Senator ANDREWS. You cannot have it both ways.

Ms. DOUGLASS. Well, let me explain the rationale. When we were hit with the Gramm-Rudman 4.3 percent across-the-board cut, our philosophy was to try not to take money out of the safety programs and not to reduce our staff, as we felt that we could afford to do that. Especially, since our largest staff is in the hazardous materials and pipeline safety area, and so that really left the R&D.

Senator ANDREWS. Where are you going to get the money?

Ms. DOUGLASS. For Gramm-Rudman?

Senator ANDREWS. No, no; for the Oregon Graduate Center. Do not get too far away from that initial subject matter. You said that research has a priority now. Of course, you also said that is a place we could sequester out $300,000. But now that we need the $200,000 for this directive it becomes prioritized. That is fine, but the question still is that no progress seems to be made in this Oregon Graduate Center.

Where are you going to get the money for it and when are you going to have it under way?

Ms. DOUGLASS. Well, we just met this week to figure out where the money was going to come from. We have come up with most of it—I am talking now about the Department of Transportation—we have come up with most of the money. The only money missing is RSPA's money, and we are looking at the different modes to see where we can come up with that amount of money.

[The information follows:]

Funds for the Oregon Graduate Center have been allocated as follows: $306,240 from FRA; $296,670 from FHWA. These amounts are noted in the Report language, reduced by the sequestration required of DOT accounts for fiscal year 1986. The remaining amount—reduced to $191,400—noted in Report language will not be assessed to RSPA at this time. Instead, an additional $100,000 will be allocated by FHWA, $50,000 by FRA, and the remaining $41,000 by the Coast Guard.

Technical projects to be performed have been identified and we have begun the procurement process with the Oregon Graduate Center. FHWA will administer its projects directly. The balance of activities will be administered through TSC by the Science and Technology Advisor to the Secretary, George Nesterczuk, who has been designated as project manager.

TIMEFRAME FOR RESOLVING FUNDING NEED

Senator ANDREWS. When are you going to resolve it?

Ms. DOUGLASS. I would say probably in the next week it will be resolved.

Senator ANDREWS. Who in RSPA will be the project manager?

Ms. DOUGLASS. Well, that probably will be in the pipeline safety area. Bob Paullin is the director of that office, and Doug Chisholm is the person that is in charge of research in the pipeline area.

Senator ANDREWS. So he will have the general overall review of who will be the project manager?

Ms. DOUGLASS. Yes; and in fact I talked with Norm Edders on the phone just yesterday or the day before yesterday, and he will be coming to Washington and I will be meeting with him the first week in March.

SUBMITTED QUESTIONS

Senator ANDREWS. Thank you very much, Madam Administrator. I have a number of questions for the record, as Senator Chiles has. Senator Hatfield has additional questions for the record. Other Senators may well have additional questions for the record.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

SAFETY REVIEW

SENATOR ANDREWS: The safety study raised various concerns about the adequacy of Hazardous Materials Regulation:

First, the backlog of petitions for rulemaking was cited as a problem in both the 1978 and 1984 studies. This 300-Petition backlog had not been improved upon. (1) What is the current backlog? (2) What steps have been taken to adjust and reprioritize the existing staff's activity. As recommended by the Task Force?

ANSWER: Since the formation of the Department of Transportation, RSPA and its predecessors have received approximately 1100 petitions. Of these, approximately 800 have been retired either by being denied, being withdrawn or by amending the regulations. There is at present a backlog of approximately 300 petitions. Rulemaking projects do move commensurate with their safety significance. First priority is given to projects that have important safety implications. Secondary priority is given to proposed rules that promote cost savings provided there is no diminution of safety. Tertiary ranking is assigned to those rules which allow us to consolidate existing exemptions on prior rules into updated rules.

We have initiated a management review of our existing procedures with a view to permanently resolving this recurring problem.

PRIORITIES

SENATOR ANDREWS: Second, the task force recommends that RSPA establish a schedule and priority listing of hazardous materials regulatory priorities. Has this been instituted?

ANSWER: The RSPA and the Office of Hazardous Materials Transportation do set priorities and establish schedules for rulemaking. I believe the task force desires a more formal and public establishment of priorities. For example, RSPA identifies each of its regulatory projects in its Regulations Agenda, which is published semiannually in the Federal Register. The Task Force's concerns seem to be that often times established timetables slip. Competition between prioritized regulatory projects is usually not the reason that RSPA fails to meet scheduled regulatory deadlines. In addition to writing regulations, the RSPA staff involved in preparing rulemakings also performs important day-to-day functions serving hazardous materials safety, such as answering written and telephonic inquiries by the regulated public, the Congress, state and local government, and other Federal agencies, and handling interagency coordination of rules and interpretations of regulations. It is these other tasks that compete for our resources (time) and these demands are unpredictable and usually immediate. In addition, high priority regulatory projects invariably are controversial and significant in their impact on the status quo; consequently, the public comment phase can be protracted, and the issues presented are usually complex and ill-suited to a quick resolution.

SENATOR ANDREWS: How could a petition for rulemaking sit unaddressed as the priority for 10 years? (pg. 9 of report)

ANSWER: No petition for rulemaking would go without an initial review for more than several months. At the present time, there are no petitions within the backlog that are of a priority nature. Each petition is examined after RSPA received it. If there are important safety implications, RSPA would take action on that petition expeditiously. However, if there were no important safety implications in the opinion of RSPA, the petition would not be given priority action. This is because RSPA resources must first be devoted to acting on petitions that have important safety implications. Those that do not, are handled when time is available.

SENATOR ANDREWS: Is there any management tool currently in place to move rulemakings along?

ANSWER: Yes, there is. Rulemaking projects do move commensurate with their safety significance. First priority is given to projects that have important safety implications. Secondary priority is given to proposed rules that promote cost savings provided there is no diminution of safety. Tertiary ranking is assigned to those rules which allow us to consolidate existing exemptions or prior rules into updated rules. Rules are tracked and moved along by way of periodic management reviews of status and progress.

PERFORMANCE-ORIENTED STANDARDS

SENATOR ANDREWS: A proposed rulemaking was first published in 1982 that would establish Performance-Oriented Standards for hazardous materials. Having such a general standard would cut down on exemptions 98% of which were granted in 1984. Not only would this save RSPA staff costs in the long run, it also would be more cost-effective for industry. Why will it take until the end of this year to publish the proposed rule, and until 1988 for publication of the final rule?

ANSWER: The project (HM-181) is massive and involves the rewrite of more than 50% of the existing regulations. Work is proceeding on HM-181 and on other rulemaking projects concurrently. Considering the size of this project, its complexity and the constituency affected, the time invested thus far, and necessary for completion, is not unreasonable. It should also be mentioned that, while HM-181 is an important project, RSPA's cargo tank rulemaking (HM-183) and the rule on liquids toxic by inhalation (HM-196) were given a high priority as well because they address important safety issues. HM-181 is making reasonable progress considering these factors.

SENATOR ANDREWS: The 1986 timetable for a final rule (safety report, February 1986) is 2 years later than was established in last year's Senate testimony. As this rulemaking was one of the priority responses after the Bhopal tragedy, why has it slipped another 2 years?

ANSWER: As pointed out in a previous question, two other rulemakings (HM-183 and HM-196) have higher priorities than HM-181 because of more immediate safety implications. In response to the Bhopal tragedy, RSPA isolated from HM-181 that aspect of the hazard classification proposals which dealt with the toxic by inhalation danger posed by the material identified in the Bhopal tragedy as well as many other materials posing similar characteristics (HM-196). HM-183 was given precedence over HM-181 because it deals with the most common bulk highway containers for the most dangerous and frequently transported commodity in this country, gasoline.

SENATOR ANDREWS: What is the status of the study of risks associated with Hazardous Liquid Pipeline Storage, due to be completed by 1985? What were the major conclusions and what, if any will be the Department's response?

ANSWER: This study has been completed and a draft report titled "An Evaluation of the Need to Expand Federal Safety Regulations to cover Pipeline-Connected Terminal Storage" is now the Departmental review process prior to its transmittal to the General Accounting Office (GAO). In this study the safety performance of the storage facilities incidental to pipeline transportation have been reviewed. The potential risks associated with these facilities, which are not currently regulated under Part 195, were examined to determine if they pose a sufficient threat to warrant regulation. The data analysed during the study did not show that the incident rate for unregulated storage facilities was higher than the incident rate for regulated storage. I expect the report to be released in March 1986.

SENATOR ANDREWS: How many workyears are currently dedicated to this rulemaking, and will that level of effort be increased with the additional staff requested in the budget?

ANSWER: At the present time, RSPA is expending 2-1/2 man years of effort on this rulemaking. With increased staffing, the level of effort will definitely be increased.

HAZARDOUS MATERIAL FOUNDATION

SENATOR ANDREWS: Last year, the concept of an industry-financed hazardous material foundation for emergency response was endorsed. What is the current status of such a proposal? What reductions in RSPA's budget request are reflected?

ANSWER: RSPA continues to support the private sector foundation concept that would fund and administer emergency response training to State and local response personnel. The private sector has responded by expanding existing programs and initiating new ones. RSPA is supportive of these programs:

- The American Trucking Association has reprinted and distributed DOT's Emergency Response Guidebook in a pocket-size edition;
- DuPont is encouraging local communities to set up Hazardous Materials Advisory Councils to plan for emergency response;
- The Chemical Manufacturers Association (CMA) is expanding the concept of Chemtrec so that a private citizen can call a toll-free number to obtain information about chemicals. Chemtrec will also be expanded to provide information to emergency room physicians on medical treatment for victims of a chemical accident; and
- CMA is also setting up a network of emergency response teams in the private sector to actually respond to chemical transportation accidents.

There are no reductions in RSPA's budget request.

COORDINATION WITH EPA

SENATOR ANDREWS: The task force report concludes that better coordination with EPA should be established since some of the same substances are regulated by both agencies. What formal procedures have been put in place to avoid duplication? How much in operating expenses could be saved in FY 1987 by allowing EPA authority now duplicated in RSPA?

ANSWER: Generally, EPA and RSPA do coordinate well. To improve coordination, the Secretary of Transportation has made RSPA a member of the National Response Team which EPA and the Coast Guard chair. Further, EPA and RSPA are working together on a number of projects including workshops and training and emergency response planning guides.

As to rulemaking, RSPA believes that coordination with EPA should be on a case-by-case basis for each rulemaking during both the development phase and the formal comment phase, and in the process each agency should recognize and respect the expertise and authority of the other in its jurisdictional area. In the enforcement area there is currently in force a Memorandum of Understanding which assigns respective roles to each agency in assuring compliance with the Resource Conservation and Recovery Act, thereby avoiding a duplication of effort.

ADDITIONAL STAFF

SENATOR ANDREWS: The Task Force recommends that RSPA "allocate approximately 5-10 additional personnel to regulatory area". What consideration was given to personnel shifts within the total RSPA allowance rather than new hires? Why does the budget request 12, two more than the high-range recommendation? To what extent will the three additional positions provided in FY 1986 meet the Task Force recommended level?

ANSWER: The Safety Task Force Report recommended that in order to effectively carry out its mission RSPA must allocate approximately 5-10 additional personnel to the regulatory area and at least four additional personnel to the enforcement area. Our budget did not request two more than the high-range recommendation. We are requesting seven positions for our regulatory program and five positions for our inspection and enforcement program. Two of the five positions in the inspection and enforcement area will work directly with the States to assist them in the development of uniform inspection and enforcement programs and for the development of uniform training and guidance materials. We believe this additional staffing is essential to accomplishment of improvements in our hazardous materials program.

HAZARDOUS MATERIAL SAFETY RECORD

SENATOR ANDREWS: Your statement claims an "excellent" hazardous material safety record. Yet in 1985 there were 11 fatalities, 252 injuries and 5,900 incidents involving hazardous material transportation. All of these statistics are up from 1983 and 1984. Furthermore 1985 damages total $26 million, an $8 million increase over 1984. As the growth in hazardous material transportation continues, it appears more should be done. Other than adding people, what specific improvements will be accomplished in FY 1986 and 1987?

ANSWER: The preliminary 1985 safety statistics are excellent and are statistically comparable with the performance observed in recent years. Year-to-year fluctuations are due to changes in the small number of serious incidents. For example, the $8 million increase in damages is accounted for by two large rail accidents. Without adding staff to improve our ability to respond to petitions for rulemakings, the only major safety improvements will be improved communication between DOT and other Federal agencies, the States, and the private sector in the area of hazardous materials incident/accident prevention and emergency response, and completion of the cargo tank rulemaking, which is receiving a high priority.

Through the creation of the Federal, State and Private Sector Initiatives Division within the RSPA, a number of types of workshops are being conducted. A series of four Interagency Hazardous Materials Management Conferences have been completed by the RSPA with FEMA, EPA, HHS, OSHA, and with state, local, and private sector representatives.

At the present time, a series of four Cooperative Hazardous Materials Enforcement Development (COHMED) workshops are being jointly held with state enforcement and emergency response personnel by the RSPA and the FHWA's BMCS. Additionally, a series of nuclear materials transportation workshops are planned by RSPA later in this fiscal year.

RSPA believes that in fostering communication between all of the involved parties in the hazardous materials transportation safety arena will result in better understanding of the problems and solutions and will increase the level of safety in that area.

HAZARDOUS MATERIALS

SENATOR ANDREWS: The former Materials Transportation Bureau (MTB) has been split into the Office of Hazardous Materials Transportation and the Office of Pipeline Safety. Explain the reasons for that reorganization.

ANSWER: The reasons for the reorganization were: first, the existence of the Materials Transportation Bureau (MTB) provided an unnecessary bureaucratic layer between the Research and Special Programs Administration (RSPA) Administrator and the hazardous materials transportation and pipeline safety program areas; second, we determined that these vital safety programs deserved and required separate staff direction and would be better managed by individual managers reporting to the Administrator than by a single manager responsible for both programs.

SENATOR ANDREWS: Hazardous materials was accorded three more people than were originally requested in last year's budget based on the House report directing better enforcement. Are those positions now filled? Provide a summary of tangible accomplishments so far as a result of increased staffing. Contrast the responsibilities of those three with the new position request.

ANSWER: One of these positions was allocated to hire a new inspector for FY 1986. One position was allocated to the Chief counsel's office of an additional attorney to support the increased effort in the enforcement program. A third position (and, in fact, a fourth) was allocated to the Federal, State, and Private Sector Initiatives Division for an additional person to provide assistance to the states in the area of hazardous materials enforcement. All three positions are expected to be filled by the end of May 1986.

The inspector position will be used to augment the inspection of import and export shipments of hazardous materials at U.S. ports and other waterfront facilities. The new positions being requested for FY 1987 will augment this effort as well as the inspection of packaging manufacturers and shipper facilities.

SENATOR ANDREWS: The conferees required the submission of an implementation plan by March 1, 1986. Can you provide that today?

ANSWER: See above response.

SENATOR ANDREWS: The justification (pg.24) states that a "systematic unified approach" must be "promoted, developed and used." Why is such an approach not currently in place?

ANSWER: The promotion, development, and use of a systematic unified approach to hazardous materials issues, such as uniform enforcement procedures, has been and will be continue to be addressed by RSPA. Past programs include the State Hazardous Materials Enforcement Development program, and issuance of the Emergency Response Guidebook and other guidance materials. The RSPA intends to intensify this systematic unified approach through its newly formed Federal, State, and Private Sector Initiatives Division.

Programs such as the Federal/state workshops, nuclear materials workshops, and joint Federal/state hazardous emergency management conferences are examples of the continuation, refinement, and intensification of the initiatives developed in earlier programs.

SENATOR ANDREWS: Why are five more positions requested in FY 1987 for enforcement? Will these be headquarters or field positions? What grade and type of responsibility?

ANSWER: There were three additional inspector positions requested for the enforcement program for FY 1987 (Justification, p. 25). These three positions, along with the one allocated in FY 1986, will meet the Secretary's Task Force recommendation of at least four additional enforcement positions for RSPA.

RSPA has no hazardous materials field offices, so these three positions will be located at headquarters, as are RSPA's other hazardous materials inspectors. All RSPA hazardous materials inspectors travel to the field to perform their duties.

Exact grade levels have yet to be determined, but will be in the GS-7/9/11/12 career ladder currently in place for the hazardous materials enforcement program. It is envisioned that one of the three positions will be used to augment the cylinder inspection program and RSPA will be seeking someone with an engineering background for this position. The other two positions will be used to augment the inspection of import and export shipments of hazardous materials at U.S. port facilities and other facilities involved with the intermodal shipment of hazardous materials.

In addition 2 more positions are requested for the Federal, State and Private Sector Initiatives Division. These transportation specialists (GS-7/9/11/12) will be used to (1) perform increased levels of communication and coordination of the Federal/State/local/private sector communities, and (2) develop and produce additional training and guidance materials.

SENATOR ANDREWS: What will be accomplished by adding seven positions to hazardous materials rulemaking? Why is there a current backlog of over 300 petitions for regulatory actions, as well as a backlog of exemptions?

ANSWER: The seven positions are distributed among the three principal components of the rulemaking function as follows:

Two additional Regulations Specialists are requested for the Standards Division to (1) address a backlog of more than 300 petitions for rulemaking; (2) establish and maintain packaging standards in conformance with international standards, which are constantly undergoing change; (3) review and update regulations pertaining to the safe transportation of hazardous materials aboard aircraft; (4) develop new explosives classification standards to facilitate their introduction into foreign commerce; (5) develop guidelines for the routing of hazardous materials by highways; and (6) handle numerous requests for interpretations and information pertaining to the regulations generally, and hazardous wastes and substances in particular.

One Transportation Specialist is requested for the Exemptions and Approvals Division to (1) improve on the thoroughness of review of petitions for exemption; (2) reduce the backlog of petitions for exemption; (3) handle matters associated with exemptions; e.g., telephone inquiries and correspondence; and (4) prepare Competent Authority Certificates which are becoming increasingly important to U.S. exporters in order to obtain delivery of their products to foreign destinations.

Four positions will be added to the Technical Division. One Health Physicist position is requested in order to address long-range regulatory needs in the area of radioactive materials which is currently pushed aside by more pressing short-term needs. There is more interest and activity in the area of radioactive material transportation than the existing staff can handle. One Mechanical/Metallurgical Engineer position is requested because of the trend to design hazardous materials packagings based on advanced mechanical and material technologies such as fracture mechanics. Also, industry is relying on non-destructive test methods such as acoustic emission and ultrasonic testing to monitor and retest hazardous materials packagings. This position will provide the Technical Division with the engineering expertise to adequately evaluate the use of these advanced technologies. One Chemist and one Secretarial position is requested to address the identification and classification of chemicals. Section 306(a) of the Comprehensive Environmental Response, Compensation and Liability Act requires that all "hazardous substances", as defined in that Act, be listed as hazardous materials under the Hazardous Materials Transportation Act. The additional Chemist will be assigned duties related to the hundreds of substances newly designated as hazardous materials that must be investigated to determine their proper transportation classification and packaging. The increased professional staff necessitates a request for one additional Secretarial position to provide secretarial and clerical support in this area.

Since the formation of the Department of Transportation, RSPA and its predecessors have received approximately 1100 petitions. Of these approximately 800 have been retired either by being denied, being withdraw, or by amending the regulations. There is at present a backlog of approximately 300 petitions. Rulemaking projects do move commensurate with their safety significance. First priority is given to projects that have important safety implications. Secondary priority is given to proposed rules that promote cost savings provided there is no diminution of safety. Teritary ranking is assigned to those rules which allow us to consolidate existing exemptions on prior rules into updated rules.

SENATOR ANDREWS: If private sector funding is being pursued for the pipeline program, why not ask industry to fund the hazardous materials activity?

ANSWER: The hazardous materials industry is very diverse. It may involve more than 200,000 business entities, ranging from large chemical and petroleum companies down to farmers transporting ammonia and pesticides. The administrative burden necessary to implement and maintain an equitable industry funding program would be very costly. However, we are reviewing this issue to determine whether some specific oversight activities which we presently perform may lend themselves to a fee collection.

SENATOR ANDREWS: One of the requested positions is for a Health Physicist to work on long-range radioactive materials issues. Why not contract out specific projects?

ANSWER: Projects are contracted out when funding allows, and an issue or problem can be effectively limited and defined. There are often prompt responses needed on issues, that may be long range but continue to change. Both short term and long term issues usually involve many technical and institutional factors. For example, on interagency and intergovernmental committees, the Health Physicist must address concerns and interests of the public and regulated industry. When dealing with industrial or professional groups the Health Physicist must be cognizant of and respond to the concerns of Federal, State, and international agencies involved with regulating radioactive materials transportation. These functions cannot be properly performed by the one Health Physicist currently on the technical staff and are not suited to performance by a contractor.

SENATOR ANDREWS: A mechanical/metallurgical engineer is requested to provide the Technical Division with evaluation of hazardous material packaging. Since these non-destructive test methods have been in use for some time, how is the engineering data currently evaluated.

ANSWER: To date, only small segments of the hazardous materials packaging industry have used non-destructive test methods as a part of their manufacturing quality control. For the most part, however, mechanical destructive testing and the use of large factors of safety have been used to provide adequate levels of safety in the newly manufactured packagings. Little use of non-destructive testing has been made with respect to the requalification of hazardous materials packagings in service. Industry has relied upon visual inspection and pressure tests for requalificataion. Today the more technically advanced segments of industry, both manufacturers and users, realize that the combined application of new materials, non-destructive testing and fracture mechanics analysis, if properly controlled, have the potential of providing substantial economic benefits. To gain these benefits, however, industry has made a substantial investment in technically qualified personnel, equipment and development costs. For the Office of Hazardous Materials Transportation to evaluate the volume of proposals to use these technologies requires both the continued training and expansion of its 4 person engineering staff.

MATERIALS TRANSPORTATION ADMINISTRATIVE SUPPORT

SENATOR ANDREWS: A comparison of requested FY 1986 MTB administration costs, especially travel (requested at $206,000), with the post-sequestered amounts shown in this year's budget, shows a dramatic increase. Why is approximately $140,000 more shown this year (than) for FY 1986 combined hazardous materials and pipeline travel?

ANSWER: The total requested in FY 1986 for the Office of Hazardous Materials Transportation and the Office of Pipeline Safety (as noted previously, the MTB was abolished in last year's reorganization) represents a funding level deemed adequate based on our experience gained over FY 1985 and thus far in FY 1986. Travel needs during this period caused us to make adjustments within our appropriations in order to enable us to carry out important ongoing and enhanced safety programs. Because enforcement and our partnerships with the states in both hazardous materials and pipeline safety, are very travel-intensive, and in light of our experience over the last 18 months, we believe our travel request accurately reflects anticipated FY 1986 travel needs in these key areas. We have placed greater emphasis in the hazardous materials area in our relationship with the states, localities, and Indian Tribes. This requires increased staff travel and thus increased administrative costs.

ADVISORY COMMITTEE

SENATOR ANDREWS: What will be spent this fiscal year and in FY 1987 for each Advisory Committee?

ANSWER: The expenditures for the two pipeline advisory committees are estimated to be:

COMMITTEE	FY-1986	FY-1987
TPSSC	$ 9,500	$ 9,500
THLPSSC	5,000	16,000
	$14,500	$25,500

The expenditure for the hazardous materials committee is estimated to be:

COMMITTEE	FY 1986	FY 1987
NHMTAC	$20,000	$40,000

SENATOR ANDREWS: Provide for the record Advisory Committee summaries, as found on page 11, 12, and 13 of last year's justification. Provide a narrative explaining any increases or decreases.

ANSWER: The following updated summaries correspond to pages 11 and 12 respectively of last year's justification:

ADVISORY COMMITTEE

1. Name: Technical Pipeline Safety Standards Committee

2. Statutory or Other Derivation: Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673 (b)).

3. Mission: The committee reviews and reports on the technical feasibility, reasonableness, and practicability of any notice of a proposed gas pipeline safety standard.

4. Number of Members (A/O 10/1/85f):
   Authorized (by Legislation or other) 15
   Filled-14

5. Qualifications Required (if any): Members are appointed on the basis of their experience in safety regulations affecting the transportation of gas and of pipeline facilities, or their training, experience, or knowledge in one or more fields of engineering needed to evaluate gas pipeline safety standards that regulate the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards.

6. Allowed Expenses (A/O 10/1/85):
   Wages - None
   All other - $11,347

7. Full or Part-time Professional Staff (A/O 10/1/85): None
   Allowed Expenses:
   Wages - None
   All other - $2606

8. List major accomplishments:
   FY 1984
   (1) Reviewed and approved a proposed gas pipeline safety standard amendment relating to Section 192.143 of 49 CFR 192 with recommendation for changes. Reviewed and provided informal views on four proposed regulatory projects being considered by MTB.
   FY 1985
   (1) Review and approval proposed amendments to 49 CFR Part 192 Sections 192.243 and 192.313(a).
   (2) Reviewed DOT Pipeline Safety Program in conjunction with THLPSSC and provided conclusions in joint report to the Administrator RSPA.
   (3) In conjuncton with the THLPSSC reviewed and commented on several reports of studies conduct by RSPA on pipeline matters in response to GAO and congressional requests.

	1981	1982	1983	1984	1985	1986 est.	1987 est.
9. Number of Meetings (by fiscal year):	1	0	1	1	3	2	2
10. Total Cost of Committee (by fiscal year):	$8,900	---	$12,811	$9,189	$13,953	$9,500	$9,500

ADVISORY COMMITTEE

1. Name: Technical Hazardous Liquid Pipeline Safety Standards Committee

2. Statutory or Other Derivation: Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)).

3. Mission: The Committee reviews and reports on the technical feasibility, reasonableness, and practicability of any notice of a proposed hazardous liquid pipeline safety standard.

4. Number of Members (A/O 10/1/85):
Authorized (by Legislation or other) 15
Filled- 15

5. Qualifications Required (if any): Members are appointed on the basis of their experience in safety regulations affecting transportation of hazardous liquid facilities, or their training, experience, or knowledge in one or more fields of engineering needed to evaluate hazardous liquid pipeline safety standards that regulate the transportation of hazardous liquids or the operation of pipeline facilities.

6. Allowed Expenses (A/O 10/1/85):
Wages - None
All other - $20,628 est.

7. Full or Part-time Professional Staff (A/O 10/1/85): None
Allowed Expenses:
Wages - None
All other - $2606

8. List major accomplishments:

FY 1984

(1) Review and approved proposed amendments to 49 CFR Part 195, on "Transportation of Hazardous Liquids by Pipelines; "Regulation of Intrastate Pipelines", and New Criteria for Isolated Corrosion Pitting.

FY 1985

(1) Reviewed and approved (a) new definition to be included in 195.2 for gathering line, rural area, and production facility; and (b) proposed amendments to 49 CFR Part 195 Sections 195.214, 195.27, 195.3 and 195.234(e).
(2) Reviewed DOT Pipeline Safety Program in conjunction with TPSSC and provided conclusions in joint report to the Administrator RSPA.
(3) In conjuncton with the TPSSC reviewed and commented on several reports of studies conducted by RSPA on pipeline matters in response to GAO and congressional requests.

	1981	1982	1983	1984	1985	1986 est.	1987 est.
9. Number of Meetings (by fiscal year):	N/A	1	1	1	3	1	2
10. Total Cost of Committee (by fiscal year):	—	$12,100	$12,032	$12,688	$23,234	$5,000	$16,000

ADVISORY COMMITTEE

1. NAME: National Hazardous Materials Transportation Advisory Committee (NHMTAC).

2. STATUTORY OR OTHER DERIVATION: Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 720) (FACA); and Section 109 (d)(3) of the Hazardous Materials Transportation Act (49 U.S.C. 1808 (d)(3)).

3. MISSION: The NHMTAC provides information, advice, and recommendations to DOT on matters relating to all aspects of hazardous materials transportation and Federal, State, and local government roles and relationships.

4. NUMBER OF MEMBERS (A/O 10/1/84):
Authorized (by Legislation or other) 21
Filled- 21 Appointed by Secretary on January 29, 1985.

5. QUALIFICATIONS REQUIRED (IF ANY): Members are appointed by the Secretary, after consultation with appropriate State and local government bodies, industry associations, labor organizations, and public interest groups. Members shall be appointed from among representatives of Federal, State, and local governments; hazardous materials shippers, carriers, and packaging manufacturers; organized labor; academia; and other concerned individuals expert in hazardous materials transportation.

6. ALLOWED EXPENSES (A/O 10/1/84):
Wages -- None
All other -- Travel

7. FULL OR PART-TIME PROFESSIONAL STAFF (A/O 10/1/84): N/A
Number--
ALLOWED EXPENSES:
Wages--(p/d or p/a)
All other--

8. LIST TWO MAJOR ACCOMPLISHMENTS: Committee met for the first time on February 19, 1985, and throughout the remainder of FY 1985 to develop recommendations to the Secretary.

FY 1985 (1) Drafted recommendations to be finalized in FY 1986.

	1983	1984	1985act.	1986est.	1987est.
9. NUMBER OF MEETINGS (BY FISCAL YEAR):			3	2	4
10. TOTAL COST OF COMMITTEE (BY FISCAL YEAR):			$35,000*	$20,000	$40,000

* Also includes travel of members to hold working group meetings.

The 1986 estimated expenditures for advisory committees were reduced from $80,000 to $30,000 to reflect the markdowns from the appropriations process. It was necessary to curtail the operations to remain within Congressional directives.

EMERGENCY RESPONSE GUIDEBOOK

SENATOR ANDREWS: How much was spent the last time RSPA reprinted the Emergency Response Guidebook (ERG)?

ANSWER: We have spent approximately $713,000 to print ($400,000) and distribute ($313,000) the 1984 Emergency Response Guidebook. RSPA received about 720,000 copies of the 1984 ERG; thus, it has required about $1.00 to print and distribute each Guidebook. We anticipate similar costs when the 1987 Guidebook is printed. We are only asking for $144,000 in FY 87 because we anticipate major postal billings to arrive in FY 88. In the FY 88 budget we shall request additional funds to handle the remaining postal charges.

SENATOR ANDREWS: Will the new ERG contain an evacuation and isolation recommendation from methyl isocyanate (MIC). As was suggested at last year's Senate hearing? If not, why not?

ANSWER: Yes, evacuation and isolation recommendations for methyl isocyanate will be included. RSPA staff are seeking data from industry and other Federal agencies in order to expand the list in a cost-effective manner.

SENATOR ANDREWS: What other major changes will be made in the next version of the ERG?

ANSWER: The cover will be resdesigned so as to avoid confusion with previous editions and words added to emphasize that the ERG is for initial response action only.

Page i -- Instructions will be modified for clarification.

Page ii -- Fire Extinguishing Methods -- Use of Water will be revised.

Page vi -- Section on protective clothing will be revised in accordance with recommendations from CMA and AAR.

Some hazardous materials descriptions which have been deleted from 49 CFR 172.101, 172.102 and the United Nations List of Dangerous Goods will be deleted and new listings of chemicals will be added.

Some Guide pages will be modified and some new guide pages added and some materials may be assigned to different guides.

The "Introduction to the Evacuation Tables for Selected Hazardous Materials" will be rewritten to improve the explanation of the evacuation table.

Two new placards -- A "RESIDUE" placard and a "CORROSIVE GAS" placard will be added to the Table of Placards.

TRANSPORTATION SAFETY INSTITUTE

SENATOR ANDREWS: Provide for the record the number and type of training conducted at the Transportation Safety Institute (TSI) for FY 1984-1987.

ANSWER:

Type of Training	FY 1984	FY 1985	FY 1986	FY 1987
Army/Coast Guard Safety				
No. of Classes	-	-	22	36
No. Trained	-	-	680	1,320
Aviation Safety				
No. of Classes	14	14	36	56
No. Trained	281	255	652	1,220
FAA Hazardous Materials Safety				
No. of Classes	3	5	10	5
No. Trained	46	80	188	100
Hazardous Materials Safety				
No. of Classes	63	37	46	39
No. Trained	2,400	1,237	1,597	965
Highway Traffic Safety Program				
No. of Classes	26	36	76	80
No. Trained	1,199	1,797	3,361	2,014
Mass Transit Safety & Security				
No. of Classes	26	35	32	76
No. Trained	1,203	1,246	2,867	2,042
Motor Carrier Safety				
No. of Classes	9	12	11	27
No. Trained	233	303	293	590
National Transportation Safety Board				
No. of Classes	-	3	3	8
No. Trained	-	58	59	190
Pipeline Safety				
No. of Classes	29	32	24	17
No. Trained	1,666	1,668	1,481	1,062
Railroad Safety				
No. of Classes	55	79	79	38
No. Trained	2,868	5,394	2,654	760
Department of State Security				
No. of Classes	7	19	38	100
No. Trained	90	298	800	2,000
FAA Civil Aviation Security				
No. of Classes	32	30	30	30
No. Trained	1,626	1,746	1,064	1,030

SENATOR ANDREWS: The Budget requests language to allow the crediting of training fees. Is the current law prohibition still in place which precludes the charging of tuition to state or local government personnel for natural gas and hazardous liquid training? Summarize all fee receipts at TSI FY 1984-1987, by source and amount for each type training.

ANSWER: Public Law 98-464- October 11, 1984 states: SEC. 7.(a) Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by adding at the end thereof the following: "In conducting training activities for State or local government personnel in the enforcement of regulations issued under this Act, the Secretary may not assess any charge of fee in the nature or tuition." This law is still in place.

Fee Receipts

Type of Training	FY 1984 Act	FY 1985 Act	FY 1986 Est.	FY 1987 Est.
Army/Coast Guard Safety				
Source:	$ -	$ -	$ -	$ -
Aviation Safety				
Source:				
International	$ 9,200	$15,850	$ 9,820	$14,700
Industry	5,700	2,690	2,454	-
Other Federal	-	18,160	20,476	22,000
FAA Hazardous Material Safety				
Source:				
International	$ 8,570	$ 631	$ 4,068	$ -
Hazardous Materials Safety				
Source:				
Fed, State, Local Government	$ -	$65,360	$136,760	$77,900
Industry	-	16,250	16,980	57,600
Highway Traffic Safety Program				
Source:	$ -	$ -	$ -	$ -
Mass Transit Safety & Security				
Source:				
State/Local Gov't.	$ -	$22,900	$64,100	$92,000
Motor Carrier Safety				
Source:				
Industry	$15,480	$35,217	$ 5,454	$30,300

Fee Receipts

Type of Training	FY 1984 Act	FY 1985 Act	FY 1986 Est.	FY 1987 Est.
National Transp. Safety Board				
Source:				
Federal	$ -	$ 4,000	$10,950	$ -
International	-	3,000	11,000	-
Industry	-	-	9,600	-
Pipeline Safety				
Source:				
Industry	$18,240	$13,760	$ -	$ -
Railroad Safety				
Source:				
Industry	$ 3,712	$ -	$ 1,306	$ -
Dept. of State Security				
Source:	$ -	$ -	$ -	$ -
FAA Civil Aviation Security				
Source:				
International	$ 1,158	$ 3,430	$ 6,795	$ 7,000

STATE HAZARDOUS MATERIAL PROGRAMS

SENATOR ANDREWS: The State Hazardous Materials Enforcement Development Program was phased out and replaced in FY 1986 by the Federal/state workshops. Have any states dropped Federal Hazardous Materials Safety Regulations. If so, which ones?

ANSWER: RSPA is not aware of any states that have dropped the the Federal Hazardous Materials Regulations. Programs such as Federal/state workshops and the requirement that States adopt the Federal hazardous materials transportation regulations in order to receive funding under the Motor Carrier Safety Assistance Program continues to promote uniform national hazardous materials regulatory programs.

SENATOR ANDREWS: What are the accomplishments this year of the Federal/state workshops. How specifically is enforcement of Federal Safety Regulations being advanced?

ANSWER: The Federal/state workshops are scheduled as follows:

March 10-13, 1986	Nashville, Tennessee
March 24-27,1986	Phoenix, Arizona
April 1-4, 1986	Hartford, Connecticut
April 8-11, 1986	Springfield, Illinois

Sponsored jointly by RSPA and the Federal Highway Administration's Bureau of Motor Carrier Safety, the workshops are designed to promote national uniformity in a Federal/state partnership in the area of the hazardous materials regulatory/enforcement programs.

It is expected that further development of the cooperative governmental relationship will result through open discussion of areas such as training, uniformity of inspections, out-of-service criteria, adjudication. Interpretations, exemptions, rulemakings, information exchange, and emergency response will also be discussed, resulting in issue/solution identification.

PIPELINE SAFETY ADVISORY COMMITTEES

SENATOR ANDREWS: What portion of the $25,000 increase for "Information and Analysis" is necessary for advisory committee expenses?

ANSWER: Based on the planned expenditures for the two pipeline advisory committees of $14,500 in FY-86 and $26,500 in FY-87 the $11,000 difference is the portion of the $25,000 increase necessary for advisory committee expenses.

SENATOR ANDREWS: Summarize the specific accomplishments of both Advisory Committees to date.

ANSWER: The accomplishments of the two pipeline advisory committees are listed under item 8 on their respective updated summaries provided above in response to a previous question.

PIPELINE PROGRAM

SENATOR ANDREWS: The General Accounting Office (GAO) in its report pointed out that the Department has not provided adequate inspection coverage of the interstate and intrastate pipeline operators for which it is responsible. GAO recommended that the Department, with input from the States, should consider alternatives to the present program that would better align State and Federal responsibilities with funding and staffing levels. What is the status of GAO's recommendation to assess the Federal and States' roles for carrying out the pipeline safety program?

ANSWER: The RSPA has analyzed Federal and State roles with respect to uniform regulations for all like categories of operators, nationwide consistency of enforcement actions and sanctions, adequate training, relevant research and development, and from interstate and intrastate perspectives. This study is not yet final. Delays have been due to a decision to complete other studies first and our desire to talk with our State partners and the Advisory Committees. These goals have now been met and our report will be issued shortly. The delay has not been a major concern to me because I believe the present law is working very well and changes should be pursued only after careful consideration and consultation with the affected constituencies.

SENATOR ANDREWS: What are the resource implications of the suggested changes or not changing the Federal and State roles?

ANSWER: It is premature to discuss the resource implications until the report prepared by RSPA has been approved.

GRANTS-IN-AID

SENATOR ANDREWS: The budget proposed the merger of the gas and hazardous liquid grant programs. Was a program level in excess of the current $4.5 million considered or requested? How can the same program level support both activities?

ANSWER: RSPA did not request a grant-in-aid (including merger) over $4.5 million. We believe this is an adequate funding level to assure continued State participation in the pipeline safety program at a level to maintain the current level of safety.

The same level can support both activities because the hazardous liquid lines encompass only 60,000 miles of intrastate pipeline as compared to 1.3 for natural gas pipelines. In addition, many states are putting more money into the State programs; and greater efficiencies are being achieved.

SENATOR ANDREWS: What is the status of implementing legislation? In the absence of legislation, would a $4.5 million gas pipeline grant level be distributed in FY 1987 as in FY 1985 and 1986, both by formula and by incentive?

ANSWER: A Budget Reconciliation passed Congress in March, 1986. This package contains a user fee for the pipeline program as well as authorization for DOT to merge the natural gas and pipeline safety grants-in-aid programs. The DOT pipeline safety authorization request will also propose user fees as well as merger of the grants-in-aid programs.

For 1987, the Research and Special Programs Administration (RSPA) plans to distribute the grant funds by essentially the same allocation formula as used in FY 1985 and 1986. In both years, RSPA used a percentage of estimated State request factor and an incentive (performance) factor. In FY 1986, the latter was modified slightly to account for State laws on third party damage and State one-call systems to prevent underground damage.

SENATOR ANDREWS: What is the benefit of a merged grant program?

ANSWER: RSPA believes that such a merger will give States increased flexibility by allowing a State to direct pipeline safety dollars to those pipelines which warrant attention, whether oil or natural gas. Therefore, if a State determines that natural gas pipelines represent the primary pipeline concern in the State, it can spend its entire allocation in this regard. On the other hand, if it chooses to allocate dollars to oil pipelines, it is free to do so. We believe that the $4.5 million requested will assure a Federal/State pipeline safety program that achieves the purposes of the Pipeline Safety Acts and enable us to meet the wishes of Congress. It will also best serve our administrative needs by providing a unified approach to the operation of substantially identical programs.

SENATOR ANDREWS: Last year's testimony indicated that the formula was under review. What is the status of any changes and how will states be affected?

ANSWER: For 1986, Research and Special Programs Administration (RSPA) proposes to use an approach similar to the 1985 allocation method but with a modified performance factor. The

1986 method will be published in the Federal Register soon. It has been discussed with the States and their suggestions incorporated. The allocation process is performed by dividing the appropriated funds into two parts with the largest amount being allocated by applying the formula used in 1985 which allocates money by multiplying 50 percent of a State's estimated budget by a percentage factor that is assigned according to the magnitude of the State's request. The smaller amount is allocated by a method designed to reflect the degree to which a State has met certain goals encouraged by RSPA. This performance factor in 1985 included the following elements: degree of participation by the State agency in the gas safety program; level of jurisdiction over pipelines in the State; inspectors' qualifications; comparison of the number of inspectors and the degree of inspection to those values RSPA believes is adequate for the program in the State. For 1986, the performance factor has been modified to credit a State agency for completing specialized training, for implementing underground utility damage prevention programs, and for voluntarily initiating inspections of facilities beyond the scope of its immediate program. States will receive a level of funding dependent on the degree of achievement of these performance goals.

SENATOR ANDREWS: How have the States reacted to the new approach? Which States will benefit?

ANSWER: The States have reacted positively to the new approach. They asked for the changes, in order to permit Research and Special Programs Administration (RSPA) to more adequately and uniformily evaluate their, programs for satisfactory performance. Those States which have improved their performance will benefit. A determination cannot be made until the end of CY 1986 as to which States are in this category.

SENATORS ANDREWS: What percentage of total program cost will be supported by the merged program? What is the current percentage?

ANSWER: Six States have certified in 1986 to assume the Federal responsibility over intrastate hazardous liquid pipelines in their States. The States are Arizona, California, Mississippi, Oklahoma, Texas, and West Virginia. Congress has not granted the Department the authority in FY-86 to provide grant-in-aid funds for States to administer their safety programs over intrastate hazardous liquid pipelines. RSPA assumed that, except for California, the additional cost to the State is small because of the small mileage of hazardous liquid pipelines compared to the large mileage of intrastate natural gas pipelines. In California the intrastate hazardous liquid pipeline program is under California State Fire Marshal's Office, a separate organization from the California Public Utilities Commission which administers the intrastate natural gas pipeline program.

The percentage of the States' total intrastate natural gas program funded by the Federal grant-in-aid appropriation is 31 percent "post sequestration." However, 29 States are receiving maximum (up to 50 percent) funding of their program costs. Thirty-four States are receiving at least 40 percent of their program costs.

SUMMARY OF STATE GRANTS

SENATOR ANDREWS: Provide for the record a summary of State grants FY 1985 and 1986 post sequester, as well as a projection of State levels in a merged program.

ANSWER: The following charts show the allocation by State of natural gas pipeline grants for State program funding for Calendar Years 1985 and 1986. Calendar Year 1987 projection of State levels is expected to be the first year for a merged program. This projection cannot be made with any degree of accuracy until each State submits their program cost estimate and other related data later in 1986.

1985 PIPELINE SAFETY GRANT ALLOCATIONS

STATE	REQUEST	ALLOCATION	% OF FUNDING
AL	$ 301,479	$ 142,216	23
AZ	$ 315,395	$ 140,202	22
AR	$ 71,857	$ 71,857	50
CA	$ 262,500	$ 111,989	21
CO	$ 71,655	$ 71,655	50
CT	$ 61,500	$ 61,500	50
DE	$ 10,520	$ 10,520	50
FL	$ 46,086	$ 46,086	50
GA	$ 101,500	$ 89,950	44
HI	$ 12,500	$ 12,500	50
IL	$ 173,870	$ 130,913	37
IN	$ 69,925	$ 69,925	50
IA	$ 68,900	$ 68,900	50
KS	$ 105,449	$ 98,381	46
KY	$ 198,923	$ 118,484	29
LA	$ 451,846	$ 172,887	19
ME	$ 13.375	$ 13,375	50
MD	$ 33,967	$ 33,967	50
MA	$ 118,440	$ 89,242	37
MI	$ 96,147	$ 96,147	50
MN	$ 93,868	$ 93,868	50
MS	$ 99,757	$ 99,757	50
MO	$ 123,512	$ 106,643	43
MT	$ 44,220	$ 44,220	50
NE	$ 57,710	$ 57,710	50
NV	$ 26,739	$ 26,739	50
NH	$ 33,185	$ 33,185	50
NJ	$ 165,215	$ 110,907	33
NM	$ 118,850	$ 116,875	49
NY	$ 980,055	$ 334,680	17
NC	$ 107,221	$ 107,221	50
ND	$ 18,909	$ 18,909	50
OH	$ 177,815	$ 127,734	35
OK	$ 105,585	$ 100,184	47
OR	$ 49,187	$ 49,187	50
PA	$ 205,660	$ 117,411	28
RI	$ 58,358	$ 58,358	50
TN	$ 132,440	$ 121,555	45
TX	$1,255,579	$ 430,108	17
UT	$ 40,370	$ 40,370	50
VT	$ 30,435	$ 30,435	50
VA	$ 88,997	$ 82,500	46
WA	$ 44,150	$ 44,150	50
WV	$ 136,475	$ 122,623	44
WI	$ 131,094	$ 112,169	42
WY	$ 124,846	$ 109,210	43
DC	$ 81,121	$ 81,121	50
PR	$ 21,475	$ 21.475	50
TOTAL	$7,138,662	$4,450,000	31

NOTE: THE 'REQUEST' REPRESENTS 50% OF THE STATE'S ESTIMATED BUDGET. THE '% OF FUNDING' IS THE PERCENTAGE OF THE BUDGET REPRESENTED BY THE ALLOCATION.

1986 PIPELINE SAFETY GRANT ALLOCATIONS
REDUCED BY 4.3 PERCENT

STATE	REQUEST	ALLOCATION	% OF FUNDING
AL	$ 293,848	$ 139,971	23
AZ	$ 253.505	$ 122,967	24
AR	$ 85,744	$ 82,057	47
CA	$ 304,150	$ 118,774	19
CO	$ 74.921	$ 71.699	47
CT	$ 93,500	$ 89,479	47
DE	$ 12.553	$ 12,013	47
FL	$ 57,100	$ 54.644	47
GA	$ 106,800	$ 102,207	47
HI	$ 7,562	$ 7.236	47
IL	$ 179,300	$ 130.997	36
IN	$ 78,075	$ 74,717	47
IA	$ 74 125	$ 70,937	47
KS	$ 108,867	$ 96.025	44
KY	$ 394,514	$ 160,458	20
LA	$ 463,200	$ 179,472	19
ME	$ 13,475	$ 12,895	47
MD	$ 41,630	$ 39,839	47
MA	$ 149,000	$ 114,214	38
MI	$ 115,000	$ 110,055	47
MN	$ 79.505	$ 76,162	47
MS	$ 97,352	$ 93,165	47
MO	$ 160.015	$ 120.111	37
MT	$ 44.220	$ 42,318	47
NE	$ 58,973	$ 56,437	47
NV	$ 26.699	$ 25.550	47
NH	$ 33,244	$ 31.814	47
NJ	$ 180,622	$ 109,722	30
NM	$ 115,950	$ 110,964	47
NY	$ 980.250	$ 322,043	16
NC	$ 107,810	$ 103,174	47
ND	$ 22,806	$ 21,825	47
OH	$ 200,045	$ 129,575	32
OK	$ 92,750	$ 88,761	47
OR	$ 48.045	$ 45,979	47
PA	$ 199,170	$ 121,945	30
RI	$ 61,082	$ 58,455	47
TN	$ 154 968	$ 126,787	40
TX	$ 573,638	$ 213,048	18
UT	$ 44,935	$ 43.002	47
VT	$ 39,594	$ 37,891	47
VA	$ 93.540	$ 84,431	45
WA	$ 42,000	$ 40,194	47
WV	$ 155,907	$ 122,621	39
WI	$ 121,000	$ 100,095	41
WY	$ 126,807	$ 114,707	45
DC	$ 34,594	$ 33,106	47
PR	$ 13,823	$ 13,228	47
TOTAL	$6,816,293	$4,277,790	31

NOTE: THE 'REQUEST' REPRESENTS 50% OF THE STATE'S ESTIMATED BUDGET. THE '% OF FUNDING' IS THE PERCENTAGE OF THE BUDGET REPRESENTED BY THE ALLOCATION.

TRANSPORTATION SYSTEMS CENTER

SENATOR ANDREWS: The justification contains no narrative support for the Transportation Systems Center (TSC) activities. What are the major ongoing projects?

ANSWER: In FY 86 and 87, TSC's major ongoing projects are in four transportation areas: safety, modernization, strategic mobility, and security.

Safety projects ongoing at TSC include implementation of the FAA's Cockpit Human Factors Plan; analyses of data in NHTSA's National Accident Sampling System (NASS) and Fatal Accident Reporting Systems (FARS); analysis of drug abuse by transportation operator personnel (OST/P); investigation of small boat crew fatigue (Coast Guard); analyses of hazardous materials transport (RSPA and EPA); assessment of the data in the Safety Information Reporting System for rail transit systems (UMTA), and of the Aviation Safety Analysis System (FAA); and engineering analysis of crashworthiness in motor vehicles (NHTSA).

Modernization projects ongoing at TSC include navigation improvements for the Coast Guard and FAA (e.g., Loran-C and GPS); upgrade of the information resource management systems for the FAA and Coast Guard; improvements in flow control for the FAA's national airways system; development of a national airport capacity expansion plan and of telecommunications and energy utilization management systems for the FAA; rehabilitation of the Army rail network for DOD's FORSCOM; and further automation of the shipping procedures employed by the Military Traffic Management Command.

Strategic Mobility projects ongoing at TSC support the Office of Emergency Transportation, the Maritime Administration, the Federal Emergency Management Administration, the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Air Force Command, and the Military Traffic Management Command. The projects are concerned with methodologies and transportation data base development necessary to assess and plan for civil sector transportation requirements in times of natural disasters or threats to national security.

Security projects ongoing at TSC are assessing surveillance needs and technologies for the reserve fleet (MarAd), ports (Coast Guard), embassies (State Department), and airports (FAA, OST/P, and Air Force).

SENATOR ANDREWS: Provide for the record a summary of modal support for FY 1985 - 1987.

ANSWER:

TSC OBLIGATION BY SPONSOR AND FISCAL YEAR
(in thousands of dollars)

Administration	Fiscal Year		
	1985 (actual)	1986 (estimated)	1987 (estimated) (note 1)
USCG	6,458	3,800	
FAA	44,073	39,900	
FHWA	542	100	
MARAD	260	200	
NHTSA	3,458	2,800	
UMTA	6,372	3,600	
FRA	4,166	3,500	
RSPA	2,232	1,800	
OST	1,791	1,200	
DOO	998	9,900	
SBIR	3,470	3,000	
OTHER	2,244	200	
TOTAL	76,064	70,000	86,000 (note 2)

Note 1: Because TSC is funded by elements of DOT and other agencies, it cannot estimate its FY87 budget in detail until these elements are able to make program commitments...probably in September or October, 1986.

Note 2. $42,900 is estimated to be obligated prior to TSC's planned defederlization on April 1, 1987; the balance is anticipated 'obligations' by TSC as a private entity.

SENATOR ANDREWS: What is the specific plan for the April 1, 1987 privatization?

ANSWER: Language in existing appropriation legislation precludes planning or implementing any change in the current federal status of the Transportation Systems Center (TSC) during FY'86. Specific options for changing TSC's federal status have not been studied recently because of this Congressional prohibition. To accomplish the proposed privatization of TSC in the first half of FY'87 will require intensive negotiations accompanied by studies relating to employee and facility considerations as well as the smooth transition of existing TSC workload and its contracts with outside firms. Our privatization plans will seek to protect the interests of TSC's current employees and sponsors of the work being carried out at TSC.

SENATOR ANDREWS: What is the likelihood that the Department of Defense could provide partial TSC support?

ANSWER: The Transportation Systems Center already conducts transportation-related work for DOD in support of national security. This work is in consonance with the Memorandum of Understanding between DOD and DOT concerning TSC, dated May 1, 1985. For FY'86, TSC expects to conduct about $10 million of transportation-related DOD work.

OFFICE OF PROGRAM MANAGEMENT & ADMINISTRATION

SENATOR ANDREWS: The Administrative cost for the Office of Program Management and Administration increased in FY 1987 by $644,575. Please explain. Working capital funds FY 1987 costs of $382,000 is requested with no comparable FY 1987 figure. Where were working capital fund expenditures previously budgeted?

ANSWER: The increase in administrative costs in the Office of Program Management and Administration is for those areas that are common to the entire Research and Special Programs Administration. The Standard Level User Charges increase is due to increased rates furnished by the General Services Administration. The increase in Communications, utilities, and miscellaneous charges is the result of estimated rate increases for the new telephone system. The estimated cost for Insurance Claims, which is a one time charge, is to reimburse the Department of Labor for the change in the type of retirement, from regular retirement to a disability retirement, for a former Director of the Transportation Safety Institute. The Working Capital Fund figure to fund RSPA's share of such common costs as building management, DOT Library, security, etc.

The Working Capital Fund costs for FY 1986 were not approved by OMB and thus were not included in our FY 1986 request. The FY 1986 cost will be absorbed through reprogramming from other areas. The Office of Management and Budget has approved the inclusion of these costs in our FY 1987 budget request.

OFFICE OF AVIATION INFORMATION MANAGEMENT

SENATOR ANDREWS: After Civil Aeronautics Board (CAB) sunset, 21 positions were requested for FY 1986 to continue aviation information management. Does the budget show 25 in recognition of continuation of essential air service?

ANSWER: Yes. The original request for 21 positions assumed a staff reduction would be possible as a result of the elimination of the essential air service program. The additional four positions are being used to continue data collections and services that are used by essential air service as well as other Department programs. At this time, we have no data collection that services only essential air service. The continuing systems service multiple users and programs and would be needed if, in the future, essential air service is discontinued.

If the essential air service program is continued in FY 1987, then one additional position and $65,000 for PC&B will be required. Regulatory functions to support the EAS program would be performed. These would include: 1) a rule to clarify record retention requirements for subsidized carriers, and 2) instruction and enforcement of air carrier reporting obligations that relate to the EAS program. In addition, funds to pay for information collection and analysis will be needed if EAS is retained.

SENATOR ANDREWS: Why are 15 positions being reduced in this area? What is meant by "realignment of data collection operations?" Will these persons be RIF'd or transferred?

ANSWER: The aviation information management program continues to be an important, essential resource that supports DOT programs. It also provides a central source for economic aviation data for several other Federal agencies and a variety of non-Federal parties concerned with air transportation. As a result, we believe that a portion of the program costs should be borne by those who directly benefit from its products and services.

In order to implement this, we plan to maintain a staff of 10 at RSPA headquarters to conduct the regulatory work of the aviation information management program. This includes: 1) program policy and guidance, 2) data requirements, 3) prescription and maintenance of reporting systems, 4) air carrier instructions, 5) conformity reviews, 6) exceptions, and 7) facilitation of user needs for services.

The 15 positions will be transferred to TSC's Working Capital Fund to perform the program's essentially non-regulatory work. This includes: 1) data collection, 2) validation and error correction, 3) processing, 4) end product generation, and 5) dissemination and special services. Work will continue in view of the amount of funds collected from Federal and non-Federal users.

SENATOR ANDREWS: Outline the proposal to collect user fees for aviation data. What percentage of use is by: 1) DOT; 2) other Federal government agencies; or 3) industry and researchers? Will all users share proportionately in the fees, or will non-governmental fees support governmental use?

ANSWER: The collection of user fees is intended to offset the cost of aviation information data collection, processing and dissemination functions. The plan is intended to pass on these costs to both Federal and non-Federal parties who directly benefit from the program's products and services. Only non-regulatory functions are being considered for cost recovery. Our plan continues the regulatory economic aviation information functions under appropriated funding.

The aviation data collected is only that which is required by the Department to fulfill its program responsibilities under the law, as allowed by the Paperwork Reduction Act of 1980. However, the data we collect is also of value to other Federal agencies as well as to non-Federal users. We estimate that DOT use is about

60%, use by other Federal agencies is about 10%, and industry and researchers account for about 30%. The system of user charges being developed will generally align with this user percentage distribution.

SENATOR ANDREWS: The budget contemplates both contracting out the data collection and management, as well as a fee for information requestors. If fees are charged, what estimate of industry non-compliance in providing data is likely?

ANSWER: The user fees collected will be applied to offset the costs of the functions "contracted out" to TSC. The charges will apply to both Federal and non-Federal users, including air carriers. We see no relationship between these fees and an air carriers obligation to submit reports to the Department. We collect only that data needed by DOT to carry out our program responsibilities under the law. As a result, any non-compliance for whatever reason will be dealt with. This may include the use of civil penalties, as provided in the Federal Aviation Act of 1958 and the Civil Aeronautics Board Sunset Act of 1984.

SENATOR ANDREWS: Where is this office's ADP center? Why can't the ADP requirement be supported at the Transportation Computer Center (TCC) or on FAA's computers?

ANSWER: The aviation information management program has used the TCC computer facilities since its initial transfer to the DOT in January 1985. The program funds requested are primarily used to reimburse TCC for ADP services provided. In the future, the program may also use some of the computer facilities at TSC.

OFFICE OF ADMINISTRATOR

SENATOR ANDREWS: Explain the responsibilities of the Deputy Administrator and Chief Scientist, now part of the current staff of the Office of Administrator. Also explain the apparent increase of two positions, described as offsets to other organization totals.

ANSWER: The Deputy Administrator assists the Administrator in the discharge of the Administrator's responsibility with authority to act for the Administrator in all matters not reserved to the Administrator by law, order, or instruction of the Administrator. The Science and Technology Advisor to the Secretary provides the secretary with an informed counsel on scientific and technical matters. He also monitors and coordinates DOT R&D programs to assure they are conducted in conformance with Departmental policies and objectives and follow sound general principles of R&D management. The Advisor further provides the necessary leadership in the formulation and implementation of Departmental initiatives in the science/technology arena. The Science and Technology Advisor to the Secretary is also the Chairman of the DOT Navigation Council which develops policy for the Secretary in all matters relating to intermodal navigation planning. The two positions in the Administrator's Office are for the Deputy Administrator and his secretary.

SENATOR ANDREWS: An apparent $1,000 increase in FY 1987 travel is shown in the Budget (pg. 15). Yet the actual increase is larger if the original FY 1986 budget request of $3,000 is used. Why will travel actually double in FY 1987?

ANSWER: When the FY 1986 budget request of $3,000 was submitted to Congress, the Research and Special Programs Administration did not have a Deputy Administrator. A Deputy was appointed in August of 1985. The FY 1986 travel budget was adjusted to $5,425 and the FY 1987 budget request increased to $6,425 in the FY 1987 Budget Justification to include the estimated travel of the new Deputy and the expanded travel requirements of the Administrator. These increases were caused by the growing emphasis on our high priority safety programs and the need for our top level management to work more closely and visibly with state, local and industry constituencies to encourage their participation, support and constructive comments.

CHIEF COUNSEL

SENATOR ANDREWS: Why is the Chief Counsel staff now shown as 8 for this fiscal year and FY 1987, when last year's budget shows 7? Why not reduce the size of this Office consistent with the initiative to privatize the Transportation Systems Center.

ANSWER: In RSPA's reorganization of MTB we reallocated the staff of MTB. Of 111 staff we put 65 (instead of 62) into the Office of Hazardous Materials Transportation; 45 (instead of 49) into the Office of Pipeline Safety; and one (attorney) into the Chief Counsel's office to work on hazardous materials enforcement.

The requested staff of eight - including six attorneys and two secretaries - will devote their efforts to the various activities of RSPA. TSC's four-person (three attorneys, one secretary) legal office is dedicated to the activities of TSC, and the work of RSPA's Chief Counsel's Office is dedicated to the several programs described in our FY 87 budget. There is no relationship between the two offices such that the issue of privatization would have any relevance to staffing needs.

OREGON GRADUATE CENTER

SENATOR ANDREWS: Senate Report 99-152 contained, in the RSPA section, a directive for the Department to make available not to exceed $200,000 to undertake a collaborative effort with the Oregon Graduate Center to compile a welding fracture data base. What is the status of this project? Are funds being transferred to Research and Special Programs Administration (RSPA) to conduct this work, if so, from where? Who is RSPA will be the project manager?

ANSWER: Funds for the Oregon Graduate Center have been allocated as follows: $306,240 from FRA; $296,670 from FHWA. These amounts are noted in the Report language, reduced by the sequestration required of DOT accounts for fiscal year 1986. The remaining amount - reduced to $191,400 - noted in Report language will not be assessed to RSPA at this time. Instead, an additional $100,000 will be allocated by FHWA, $50,000 by FRA, and the remaining $41,000 by the Coast Guard.

Technical projects to be performed have been identified and we have begun the procurement process with the Oregon Graduate Center. FHWA will administer its projects directly. The balance of activities will be administered through TSC by the Science and Technology Advisor to the Secretary, George Nesterczuk, who has been designated as project manager. The TSC procurement will be completed by September 1, 1986.

RESEARCH

SENATOR ANDREWS: FY 1986 research funds were cut an additional $300,000 (pg. 2) to offset the effect of the 4.3% sequester on operations costs. Why was this done at a time when the safety report emphasized critical shortfalls in the hazardous materials area?

ANSWER: After critical analysis of both the operational and R&D

programs, it was determined that because there is more flexibility in R&D planning and implementation, it was possible to defer a more than proportionate reduction in the R&D area as opposed to operations. The very nature of our operational programs is such that they are sensitive to cutbacks and could incur long lasting negative impacts. Most of our operational programs are: 1) safety related and, therefore, of high priority, 2) are rigid in their commitment to critical timing and a specific level of effort, and 3) are the key to ensuring continued State and local participation in critical training, regulatory, and enforcement programs. The reductions taken in the hazardous materials R&D areas are not related to the "critical shortfalls" emphasized in the Safety Task Force Report which were oriented to operational issues rather than R&D. The reductions are considered to be a deferral of effort in areas where the work can be done at a later time without causing serious problems.

SENATOR ANDREWS: If FY 1986 research activities could be cut back between 13% (Hazardous Materials) and 24% (Telecommunications), why should Congress provide more hazardous material and pipeline research money in FY 1987?

ANSWER: The reductions that were made in hazardous materials and pipeline safety were more in the nature of deferrals than elimination of R&D activity. The reductions were made in areas that could withstand a brief stretch-out period such as: rulemaking methodology, research to support the next revision of the ERG (FY 1990) and pipeline component technology evaluation.

SENATOR ANDREWS: The justification lists several research activity supporting the hazardous materials program. Given the conclusions of the safety review why are not project milestones, deadlines or priorities reflected?

ANSWER: The research activities shown in the budget are general areas of investigation, each of which consists of specific research projects. Each research project is managed by established milestones, goals and deadlines. Priorities reflect the needs of the regulatory program which is guided by identified safety problems, changes in industry practices, and the need to maintain consistency with international standards.

SENATOR ANDREWS: Submit for the record the FY 1987 research priorities in each category. Specify deadlines for completing hazardous materials research projects.

ANSWER:

1. INFORMATION AND ANALYSIS: RSPA is conducting a continuing series of research studies which provide the analytical base for its hazardous materials safety program. These include:

   a. Regulatory changes currently under review will significantly alter the reporting requirements and associated data bases within the Hazardous Materials Information System (HMIS). These changes will require that software for data entry, editing, error detection, correction, and validating be developed or modified. A subsystem to merge existing and newer data bases to maintain system continuity will also be developed. This effort is likely to continue beyond FY 87.

b. Work will continue on efforts to characterize the transportation of hazardous materials by truck and rail. This multi-year effort includes quantitative information on commodity flows, routes, hazards and container performance.

c. Research in support of current rulemaking projects will also continue. Current efforts include an evaluation of the safety performance of rail tank cars in support of dockets HM-144, 174 and 175. These and other efforts will continue beyond FY 1987.

d. The Nuclear Waste Policy Act (NWPA) of 1982 imposed a number of requirements on DOT to assist NRC, DOE, the states and others in the national programs for dealing with spent nuclear fuel and other nuclear wastes. Efforts will continue to study the capability and feasibility of the transportation industry to meet the potential transportation needs that will arise from implementation of the Act. These responsibilities will continue and may increase as the repository program develops.

2. RULEMAKING: With respect to rulemaking, the major research priority is the development of improved classification and packaging standards for highly toxic and reactive materials such as methyl isocyanate. A final rule, HM-196, "Packaging and Placarding Requirements for Liquids Toxic by Inhalation", was published October 8, 1985, as an immediate response to regulatory deficiencies identified after the Bhopal, India incident. However, based on preliminary results of an ongoing evaluation of the present classification and packaging standards indicates a need to develop improved standards, particularly for bulk packagings. RSPA plans to initiate in FY 86 an estimated 18-month study to accomplish this development with the majority of funding coming from the requested FY 86 funds.

Work will continue on the development of improved packaging standards particularly for bulk quantities of hazardous materials and improved classification standards particularly for explosives and flammable solids.

3. EMERGENCY RESPONSE: The Emergency Response Guidebook, as the prime resource for fire and emergency response personnel through the nation, continues to be a high priority item. The Guidebook is revised and republished every three years to keep pace with the introduction of new hazardous materials, changes in the listing of hazardous materials, changes in the United Nations list of ID numbers, and improvements in emergency response techniques. Further, experience has shown that 3 years is the expected physical life of the Guidebook given the severe environments in which they are used.

Pipeline Safety Technology

1. Re-evaluate the safety requirements of highly volatile liquid pipelines as compared to those for gas pipelines.
2. Develop methodologies, for analyzing regulatory/enforcement alternatives, risks, costs and other impacts

associated with planned/proposed pipeline safety problems.

3. Modify existing auotomated data systems to support pipeline regulatory activities.
4. Evaluate new pipeline component technology.
5. Conduct LNG spill tests at the DOE National Test Site, Nevada (using LNG).

Emergency Transportation Technology

1. Emergency Transportation data base system improvements, data file updates and the addition of new required data;
2. Continued refinement of the Emergency Transportation demand/capacity model;
3. Mobilization related issue research; and
4. Transportation network modeling.

SENATOR ANDREWS: Why is funding for mobilization preparedness research again requested in FY 1987, when last year's justification said: "This project will complete development of all parts of the Transportation Mobilization Contingency Plan?"

ANSWER: The "Transportation Mobilization Contingency Plan" consists of a series of inter-related DOT orders. These orders, for example, provide policy and procedural guidance for (1) overall DOT crisis management, (2) the emergency control of civil transportation, (3) civil transportation-related supporting resources claimancy actions, and (4) the organizational structure and responsibilities for the DOT Emergency Organization. The project also includes analytical work in researching selective aspects of anticipated mobilization problems. The continuation of "Transportation Mobilization Contingency Plan" work into FY 1987 is the result of an overly ambitious time schedule for completion and coordination of the initial four orders which are requiring an extremely comprehensive update not originally thought to be necessary. However, the current timetable does anticipate completion of the "Plan" in FY 1987. It must be noted that funds to analyze national security-related issues (as they affect civil transportation) as well as preparedness order updates will continue to be requested under this line item in future years. These funds are necessary to maintain the current high level of mobilization preparedness for DOT and the other members of the Federal transportation community.

RADIONAVIGATION

SENATOR ANDREWS: FAA is researching the extension of LORAN-C mid-continent expansion for non-precision instrument approaches where they currently are not available. Is this initiative under review by RSPA? What are your recommendations in this area? What impact on the LORAN system would occur for aviation users after civil GPS is brought on line?

ANSWER: RSPA has been involved in some aspects of the mid-continent expansion since its initiation. We monitor the activities of the Coast Guard, FAA and the National Association of State Aviation Officials, one of the leading proponents of the expansion and will be taking part in their forth coming national meeting. We have closely followed FAA/Coast Guard development on the project and reviewed the cost/benefit analysis developed by the FAA's contractor. We believe the benefits to be gained outweigh the costs provided the mid-continent stations are operational in time to allow the user 7 to 8 years use before the LORAN-C system faces displacement by GPS. Our main recommendation would be that maximum use be made of civilian contractors in order to expedite implementation. We would not see a major impact on civil aviation use of LORAN-C until several years after GPS becomes operational.

SENATOR ANDREWS: Why are no funds requested in FY 1987 for evaluation of current systems?

ANSWER: Funds initially programmed for evaluation of alternative systems were deleted to accommodate budget adjustments. We decided to defer evaluation of alternative systems for another year rather than disrupt programs that are already well along.

TANK CARS

SENATOR ANDREWS: Provide for the record Research and Special Program Administration's (RSPA) response to the National Transportation Safety Board (NTSB) recommendation R-85-105 regarding tank car shipments of hazardous materials.

ANSWER: RSPA shares the belief of NTSB that head protection might be beneficial for tank cars carrying a broader class of hazardous materials. The Federal Railroad Administration is currently conducting a research program on tank car head protection. RSPA intends to review the results of that effort and, if appropriate, will initiate rulemaking at that time.

RSPA cannot agree with two aspects of this recommendation, however. First, the supporting analysis for Docket HM-175 showed that for most commodities, head protection retrofitting on existing cars had a highly unfavorable cost-benefit ration. As an example, the proposed criterion would result in head protection being required for tank cars carrying commodities which pose a relatively low hazard, such as combustible liquids and paints. Therefore, any rulemaking that we initiate is not likely to involve a retrofit of existing tank cars carrying those commodities.

Second, and more fundamentally, we believe that the proposed use of a half mile isolation radius is an inappropriate criterion for requiring head protection. The recommended half mile isolation radius in the 1984 Emergency Response Guidebook (DOT P 5800.3) is intended to protect people from potential fragmentation hazards if a tank car or cargo tank is involved in a fire. The presence of head protection will not provide any significant reductions in these fragmentation hazards. Indeed, in some rare accidents, a tank car with head protection may be more likely to violently rupture than a car without head protection.

In light of this analysis, RSPA requested that recommendation R-85-105 be classified as "Closed - Acceptable Action".

INFORMATION MANAGEMENT

SENATOR ANDREWS: The House Committee encouraged RSPA to consider contracting out the aviation information function. What is the status of the A-76 review? When will the associated report, required to be submitted February 1, 1986, be made available?

ANSWER: A preliminary analysis of the aviation information management program identified the fact that some of the functions being performed would lend themselves to contracting out. At the same time it was determined that a system of user charges could be developed to offset the cost of these activities. As a result, we have not pursued an A-76 study. We have instead pursued the program realignment described in our budget request that will provide reductions in both appropriated funds and position requirements beginning in FY1987.

The program realignment will transfer the staff performing essentially non-regulatory aviation functions to the TSC Working Capital Fund. User charges collected will be used to fund their data collection, processing, end product creation and dissemination, and servicing activities. This "contracting out" is viewed as responding to the A-76 study request.

COLD WEATHER RESEARCH

SENATOR ANDREWS: The conferees instructed the Department to conduct an assessment of cold weather transit technology research undertaken by the Urban Mass Transportation Administration (UMTA). Has the Transportation Systems Center begun its review? When will a report be issued?

ANSWER: TSC has recently started the UMTA cold weather transit technology project. Based upon available information, approximately four-to-six months will be required to perform this work.

QUESTIONS SUBMITTED BY SENATOR CHILES

PIPELINE SAFETY

SENATOR CHILES: Ms. Administrator, as you know, one of the two existing pipelines of the Transgulf pipeline that runs from Louisiana to Port Everglades in Florida is being converted from a natural gas pipeline to a pipeline that will carry gasoline and jet fuel. I understand that the conversion must be carried out in a manner consistent with design and construction standards of the Office of Pipeline Safety in your agency. This essentially will require the converted pipeline to be as structurally sufficient as if it were being constructed new today. Is that basically correct?

ANSWER: Your conclusion is correct. The line to be converted is one of two principal natural gas transmission lines operated by the Florida Gas Transmission company which, as Transgulf, is part of the HNG/Internorth system. Our conversion rules require Transgulf to perform a complete design, construction, operation and maintenance review of the existing pipeline facilities and, if necessary, to take corrective measures to sustain the integrity of the pipeline system. Following this action and prior to initial liquid service operation, the pipeline system will be water tested to a pressure in excess of anticipated operating conditions. All unsafe defects will be corrected.

SENATOR CHILES: Has RSPA reviewed the design and reconstruction plans of Transgulf for the pipeline that is being

converted? Are you satisfied with the conversion plans to date?

ANSWER: The company informed us recently that 70 percent of the written conversion plan is completed. They estimate an additional 60 days to prepare the remaining procedures. Following the plan's completion, Transgulf will meet with our regional engineers at which time the conversion procedures will be checked for adequacy and completeness prior to the initiation of any field conversion.

SENATOR CHILES: Are you continuing to make checks and spot inspections as the pipeline is being reconstructed?

ANSWER: The pipeline will be inspected by our regional staff at intervals during the conversion process. The frequency and depth of coverage of an inspection of a localized area of construction will be determined by the Regional Chief. I assure you that this project will receive a high priority in the regional workload. In 1985 the natural gas lines operated by Florida Gas, including the line to be converted, were comprehensively inspected in three of six separate operating units. The data developed from these inspections including original design construction, testing, and operational history, will provide a good knowledge base for our review and acceptance of the Transgulf conversion process.

SENATOR CHILES: If the pipeline, once the reconstruction is completed, does not meet your standards and you therefore are not convinced it can be operated safely, does RSPA's Office of Pipeline Safety have the authority to prohibit gasoline and jet fuel from being pumped through the new line?

ANSWER: RSPA's Office of Pipeline Safety does have the authority to prohibit the operation of hazardous liquid pipelines through specific or injunctive relief (49 CFR Part 190). The Office will not allow the pipeline to be initially operated unless violations of Federal safety standards, if any, discovered during the construction and testing phase have been corrected.

SENATOR CHILES: Ms. Administrator, the Transgulf pipeline runs through more than one state and, therefore, is an interstate pipeline. The responsibility for interstate pipeline safety inspections is a federal responsibility and the several states through which it runs have no reponsibility for pipeline safety inspections for this pipeline, is that correct?

ANSWER: The Transgulf pipeline system will traverse the States of Louisiana, Mississippi, Alabama, and Florida. The Office of Pipeline Safety is solely responsible under the Hazardous Liquid Pipeline Safety Act of 1979 for the performance of the safety inspections on this interstate pipeline system.

SENATOR CHILES: With only 18 pipeline safety inspectors in RSPA's nationwide force, do you have adequate resources to make the necessary safety inspections, not only for the Transgulf pipeline, but for the other interstate pipelines nationwide?

ANSWER: The RSPA believes that the regional inspector staffing level is acceptable at this time.

SENATOR CHILES: Ms. Administrator, I would like you to keep my office informed on a periodic basis as you continue to monitor the reconstruction of the Transgulf pipeline to insure full compliance with RSPA safety standards.

ANSWER: I understand your concern with the conversion and operation of the Transgulf pipeline. I assure you that we will dedicate appropriate resources to the inspection of this system. We will keep you informed of this project as it progresses.

GRANT-IN-AID PROGRAM

SENATOR CHILES: Ms. Administrator, I noticed that you have requested $4.5 million for the grant-in-aid program to assist with the state expense of providing pipeline safety inspection for intrastate pipelines. While the legislation permits the Federal government to provide up to 50% of the States expenses for this function, the amount requested will, on average, only cover approximately 33% percent of state expenses. Additionally, you have proposed to include hazardous liquid inspections in this program which has up to this date only funded state inspections for natural gas pipelines. Will the States continue to participate in this program at these reduced levels of Federal assistance?

ANSWER: The Research and Special Programs Administration (RSPA) believes the States will continue to participate in the program.

EMERGENCY RESPONSE GUIDEBOOK

SENATOR CHILES: You have requested an increase of $474,000 for a triennial update of the Emergency Response Guidebook. Updating this book every 3 years is an administrative decision. To what extent has the field changed since the last Guidebook was issued? Could this update be postponed another year?

ANSWER: There are two main purposes for updating the Emergency Response Guidebook. One is to incorporate the experiences accumulated by the emergency response personnel who use the ERG to deal with incidences involving hazardous materials. The other one is to incorporate regulatory changes, international and domestic, which make it necessary to change the ERG.

Since the last updating of the ERG in 1984, RSPA has received a number of comments and suggestions from users of the ERG who suggested improvements in the ERG based on their first-hand experiences. Some of this information is very valuable and should be incorporated in the ERG as soon as feasible so other users can share the benefits.

A significant regulatory change was made in 1985 by RSPA because of the accident in Bhopal, India. The Department of Transportation is putting more emphasis on materials which possess Inhalation Toxicity. In HM-196, DOT identified 36 chemicals having inhalation toxicity hazards. As a result, the ERG has to be updated to incorporate these regulatory changes. In addition, quite a few materials have been added to the United Nations' hazardous materials list which, in turn, were incorporated into the regulations of ICAO and IMO. These changes also need to be updated in the ERG.

The ERG was first published in 1980 and updated in 1984. The 3-year updating period, at this stage, is important because there are significant changes in hazard identification which must be communicated to local responses. If the updating of the ERG is postponed for another year, those major regulatory changes and valuable user experiences described above will not be available to the majority of emergency response personnel. RSPA would have to use other means to convey this information to emergency response entities in order to ensure the safety of the public.

USER FEE LEGISLATION

SENATOR CHILES: The legislation proposed for pipeline safety inspection user fees would raise approximately $8.2 million, including $4.5 million for the grants-in-aid program and $3.7 million for the cost of maintaining, reviewing and enforcing pipeline regulations. How was the target amount to be raised established? Why wasn't a higher amount proposed for the grants-in-aid program?

ANSWER: The target amount consists of two categories— Federal pipeline safety costs and costs of the grant-in-aid. Federal costs consist of those incurred by RSPA in conducting the comprehensive pipeline safety program, including rulemaking, enforcement, research and development, and training programs, and amount to $3.7 million. This amount is based on a constant staffing level and related costs. The $4.5 million for the grants-in-aid program is based on the belief that $4.5 for the grants-in-aid is adequate to sustain the current State participation in the pipeline safety program and maintain present levels of safety.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

N. J. v. NEVADA RADON

SENATOR LAUTENBERG: The State of New Jersey has brought suit against the State of Nevada with respect to the latter's permitting requirements and regulations relating to the disposal of radon contaminated earth. The case is now before the U. S. Supreme Court on original jurisdiction. My understanding is that RSPA has recommended that the Federal Government file an amicus brief in the case. What will this brief, if it is filed, say? Will you address the issues in the case? What is your view of the issues in this case?

ANSWER: Under the Hazardous Materials Transportation Act, and the Hazardous Materials Regulations adopted thereunder, any requirement of a state or one of its political subdivisions that is inconsistent with that Act or the Regulations is preempted. In the face of requirements adopted by the State of Nevada and the City of Las Vegas that effectively ban the shipment into those jurisdictions of soil contaminated with radium, a low level radioactive waste, New Jersey has brought suit under the original jurisdiction of the U. S. Supreme Court to have the state and city requirements declared preempted under the Act and the Constitution.

The RSPA has an administrative process for issuing, either upon application or on its own motion, rulings as to the inconsistency of state and local requirements with the Act and the Regulations. RSPA has recommended to the Justice Department that it file an amicus curiae brief with the Court, setting forth our view on the issues involved in the light of previous rulings we have issued on similar provisions, and offering to develop a ruling in this matter should the Court seek to remand it to us.

SENATOR LAUTENBERG: Your Office of Hazardous Materials Transportation is in the final analysis, responsible for the development and implementation of national hazardous materials transport policy. I know that the program relies heavily on state inspection personnel. But an adequate corps of Federal inspectors is, in my view, essential. Would you supply for the record the following information:

1) The average on hand strength of both state and Federal hazardous materials inspection forces by mode for Fiscal 1985, your estimate of this number for Fiscal 1986 and 1987.
2) The number of Federal hazardous materials inspectors by mode and state for Fiscal 1985 and your estimate for Fiscal 1986 and 1987.

ANSWER: The Research and Special Programs Administration, within the Department of Transportation, is responsible for the Department's hazardous materials transportation policy, including regulation, training, research and development. However, each mode is responsible for enforcement of the hazardous materials regulations for its mode, i.e., FHWA is responsible for enforcement of the hazardous materials regulations on the highways. Accordingly, the Department's hazardous materials enforcement (inspection) force is as follows:

	FY 85	FY 86	FY 87
RSPA	7	8	11
FHWA	149	239	299
FAA	112	162	162
USCG	570	570	570
FRA	195	195	195

We do not know at present the number of state hazardous materials inspectors. One of the goals of the four regional Cooperative Hazardous Materials Enforcement Development meetings that will take place in March and April 1986 is to obtain this information for each state that has an active enforcement program.

We do know that state hazardous materials inspection and enforcement activity has increased in the last five years. For example, the state of Texas filed 1,184 hazardous materials violations in the last quarter of 1984. For that same period in 1985, the number of violations filed was 1,464, an increase of nearly 24 percent.

SENATOR LAUTENBERG: You propose to "merge" the State grant programs for natural gas pipeline safety (funded at $4.5 million in FY-86) and hazardous liquid pipeline safety (funded at zero in FY-86). Would you provide for the record the distribution by State of natural gas pipeline grants for fiscal 1985 (along with your estimate for fiscal 1986) and your projected distribution of the funds under the "merged" program you propose?

ANSWER: The following charts show the allocation by State of natural gas pipeline grants for State program funding for Calendar Years 1985 and 1986. Calendar Year 1987 projection of State levels is expected to be the first year for a merged program. This projection cannot be made with any degree of accuracy until each State submits their program cost estimate and other related data later in 1986.

1985 PIPELINE SAFETY GRANT ALLOCATIONS

STATE	REQUEST	ALLOCATION	% OF FUNDING
AL	$ 301,479	$ 142,216	23
AZ	$ 315,395	$ 140,202	22
AR	$ 71,857	$ 71,857	50
CA	$ 262,500	$ 111,989	21
CO	$ 71,655	$ 71,655	50
CT	$ 61,500	$ 61,500	50
DE	$ 10,520	$ 10,520	50
FL	$ 46,086	$ 46,086	50
GA	$ 101,500	$ 89,950	44
HI	$ 12,500	$ 12,500	50
IL	$ 173,870	$ 130,913	37
IN	$ 69,925	$ 69,925	50
IA	$ 68,900	$ 68,900	50
KS	$ 105,449	$ 98,381	46
KY	$ 198,923	$ 116,484	29
LA	$ 451,846	$ 172,887	19
ME	$ 13.375	$ 13,375	50
MD	$ 33,967	$ 33,967	50
MA	$ 118,440	$ 89,242	37
MI	$ 96,147	$ 96,147	50
MN	$ 93,868	$ 93,868	50
MS	$ 99,757	$ 99,757	50
MO	$ 123,512	$ 106,643	43
MT	$ 44,220	$ 44,220	50
NE	$ 57,710	$ 57,710	50
NV	$ 26,739	$ 26,739	50
NH	$ 33,185	$ 33,185	50
NJ	$ 165,215	$ 110,907	33
NM	$ 118,850	$ 116,875	49
NY	$ 980,055	$ 334,680	17
NC	$ 107,221	$ 107,221	50
ND	$ 18,909	$ 18,909	50
OH	$ 177,815	$ 127,734	35
OK	$ 105,585	$ 100,184	47
OR	$ 49,187	$ 49,187	50
PA	$ 205,660	$ 117,411	28
RI	$ 58,358	$ 58,358	50
TN	$ 132,440	$ 121,555	45
TX	$1,255,579	$ 430,108	17
UT	$ 40,370	$ 40,370	50
VT	$ 30,435	$ 30,435	50
VA	$ 88,997	$ 82,500	46
WA	$ 44,150	$ 44,150	50
WV	$ 136,475	$ 122,623	44
WI	$ 131,094	$ 112,169	42
WY	$ 124,846	$ 109,210	43
DC	$ 81,121	$ 81,121	50
PR	$ 21,475	$ 21,475	50
TOTAL	$7,138,662	$4,450,000	31

NOTE: THE 'REQUEST' REPRESENTS 50% OF THE STATE'S ESTIMATED BUDGET. THE '% OF FUNDING' IS THE PERCENTAGE OF THE BUDGET REPRESENTED BY THE ALLOCATION.

1986 PIPELINE SAFETY GRANT ALLOCATIONS
REDUCED BY 4.3 PERCENT

STATE	REQUEST	ALLOCATION	% OF FUNDING
AL	$ 293,848	$ 139,971	23
AZ	$ 253.505	$ 122,967	24
AR	$ 85,744	$ 82,057	47
CA	$ 304,150	$ 118,774	19
CO	$ 74.921	$ 71.699	47
CT	$ 93,500	$ 89,479	47
DE	$ 12.553	$ 12,013	47
FL	$ 57,100	$ 54.644	47
GA	$ 106,800	$ 102,207	47
HI	$ 7,562	$ 7.236	47
IL	$ 179,300	$ 130.997	36
IN	$ 78,075	$ 74,717	47
IA	$ 74 125	$ 70,937	47
KS	$ 108,867	$ 96.025	44
KY	$ 394,514	$ 160,458	20
LA	$ 463,200	$ 179,472	19
ME	$ 13,475	$ 12,895	47
MD	$ 41,630	$ 39,839	47
MA	$ 149,000	$ 114,214	38
MI	$ 115,000	$ 110,055	47
MN	$ 79.585	$ 76,162	47
MS	$ 97,352	$ 93,165	47
MO	$ 160.015	$ 120.111	37
MT	$ 44.220	$ 42,318	47
NE	$ 58,973	$ 56,437	47
NV	$ 26.699	$ 25.550	47
NH	$ 33,244	$ 31.814	47
NJ	$ 180,622	$ 109,722	30
NM	$ 115,950	$ 110,964	47
NY	$ 980.250	$ 322,043	16
NC	$ 107,810	$ 103,174	47
ND	$ 22,806	$ 21,825	47
OH	$ 200,045	$ 129,575	32
OK	$ 92,750	$ 88,761	47
OR	$ 48.045	$ 45,979	47
PA	$ 199,170	$ 121,945	30
RI	$ 61,082	$ 58,455	47
TN	$ 154 968	$ 126,787	40
TX	$ 573,638	$ 213,048	18
UT	$ 44,935	$ 43.002	47
VT	$ 39,594	$ 37,891	47
VA	$ 93,540	$ 84,431	45
WA	$ 42,000	$ 40,194	47
WV	$ 155,907	$ 122,621	39
WI	$ 121,000	$ 100,095	41
WY	$ 126,807	$ 114,707	45
DC	$ 34,594	$ 33,106	47
PR	$ 13,823	$ 13,228	47
TOTAL	$6,816,293	$4,277,790	31

NOTE: THE 'REQUEST' REPRESENTS 50% OF THE STATE'S ESTIMATED BUDGET. THE '% OF FUNDING' IS THE PERCENTAGE OF THE BUDGET REPRESENTED BY THE ALLOCATION.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

OREGON GRADUATE CENTER—WELDING FRACTURE DATA BASE

SENATOR HATFIELD: In the Senate Appropriations Committee report to accompany H.R. 3244, the FY 86 Transportation and Related Agencies Appropriations bill, the Committee directed RSPA to make available $200,000 to the Oregon Graduate Center (OGC) to compile a welding fracture data base. This report language was reaffirmed in the Conference Report for the FY 86 Continuing Resolution. To date, no monies have been provided nor have any contracts been signed with OGC.

1.) Does RSPA intend to honor the earmarking by the Conference Committee of available funds to OGC for the welding fracture data base?

2.) If so, does RSPA intend to provide the $200,000 earmarked in the Conference Committee Report? If not, please provide to the Committee the funding level to be made available and an explanation for the lower figure.

3.) Will these funds be provided wholly out of the budget for RSPA? If not, please breakdown for the Committee the sources for the monies to be directed for this purpose.

4.) Please provide an explanation to the Committee for why these funds have not yet been made available to OGC in the face of its Committee's specific earmark.

5.) When will RSPA make these funds available to OGC for this purpose? If it cannot be done within thirty days of the hearing, please explain to the Committee specifically why this time frame cannot be met and provide a time certain for when this will be accomplished.

ANSWER: Funds for the Oregon Graduate Center have been allocated as follows: $306,240 from FRA; $296,670 from FHWA. These amounts are noted in the Report language, reduced by the sequestration required of DOT accounts for fiscal year 1986. The remaining amount - reduced to $191,400 - noted in Report language will not be assessed to RSPA at this time. Instead, an additional $100,000 will be allocated by FHWA, $50,000 by FRA, and the remaining $41,000 by the Coast Guard.

Technical projects to be performed have been identified and we have begun the procurement process with the Oregon Graduate Center. FHWA will administer its projects directly. The balance of activities will be administered through TSC by the Science and Technology Advisor to the Secretary, George Nesterczuk, who has been designated as project manager. The TSC procurement will be completed by September 1, 1986.

SUBCOMMITTEE RECESS

Senator ANDREWS. The subcommittee will now stand in recess until Wednesday, March 5, when we will meet with the Federal Highway Administration and the National Highway Traffic Safety Administration.

Thank you very much.

Ms. DOUGLASS. Thanks.

[Whereupon, at 10:34 a.m., Wednesday, February 26, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 5.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1987

WEDNESDAY, MARCH 5, 1986

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:08 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Abdnor, D'Amato, Chiles, Byrd, and Lautenberg.

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

STATEMENT OF RAY A. BARNHART, FEDERAL HIGHWAY ADMINISTRATOR

ACCOMPANIED BY RICHARD D. MORGAN, EXECUTIVE DIRECTOR

OPENING REMARKS

Senator ANDREWS. The subcommittee will come to order.

This morning we will begin our hearing by hearing from the Federal Highway Administration. We have the Administrator with us this morning, Ray Barnhart. He has a prepared statement which we will, let me assure you, Mr. Administrator, insert in the record as though you had uttered every word of it. You can summarize it in any way you wish. You can read it in its entirety, or we can just go to questions and assume that you are standing by every word that was written in that statement. It is good to have you here this morning.

We have opening statements from Senator D'Amato and Senator Chiles that will be put in at this time.

[The statements follow:]

STATEMENT OF SENATOR D'AMATO

Mr. Chairman, I appreciate this opportunity to offer my comments regarding the administration's proposed fiscal year 1987 budget for the Federal Highway Administration [FHWA] and the National Highway Traffic Safety Administration [NHTSA]. I also extend my warm welcome to FHWA Administrator Ray Barnhart and to NHTSA Administrator Diane Steed who will testify before the subcommittee this morning.

The fiscal year 1987 proposed budget for FHWA is $12.8 billion. This represents a cut of 9 percent from fiscal year 1985 levels of $14.1 billion. The budget contemplates significant proposed legislative changes when the Federal highway and transit programs come up for reauthorization at the end of fiscal year 1986.

A draft bill, the "Surface Transportation Reauthorization Act of 1986," already has been transmitted to Congress by the Secretary of Transportation. The stated objectives of this bill are to "redefine the role of Federal, State, and local governments in carrying out surface transportation projects involving highway construction, highway safety, and transit." All funding contained in the bill would be derived from user fees paid into the Highway Trust Fund.

Certainly, the draft legislation meets its goal of redefining this program. I already have stated my views on this "redefinition" to the Secretary with respect to the deleterious effects of these changes on the national transit program. I will say again that I believe these proposed changes are unfair. Although I voted for Gramm-Rudman and I firmly believe in the importance of deficit reduction to this Nation, our transportation programs are being dealt a disproportionate share of these sacrifices.

The administration proposes to replace various highway categorical programs and the entire transit program with a new combined highway-transit block grant. This block grant is to be funded with $1.1 billion from the Mass Transit Account of the Highway Trust Fund and $2.2 billion from highway user fees. The moneys will be distributed to State Governors for allocation among highway and bridge projects which are not on an interstate or primary highway, and among all transit projects.

The proposed $3.3 billion urban mobility block grant would result in a cut of over 65 percent to Federal mass transit funding.

The budget also proposes combining the Interstate Construction, Interstate 4R, and Primary System programs into a block grant. The administration's intent is to provide the States with flexibility to spend their block grant allocations on the projects they select, whether they are Interstate or Primary projects. Under this proposal, New York State would receive about $283.3 million in fiscal year 1987, compared to $551 million in fiscal year 1986 (this reduction reflects deletion of the Westway construction project).

The proposed urban mobility block grant would provide New York State with about $310 million in fiscal year 1987 for Bridge, Urban Systems [FAUS], and other highway programs. This is a cut of 9 percent from the fiscal year 1987 level of $340 million.

The Highway Interstate Transfer Program, funded from the Highway Trust Fund, was allocated $725 million in fiscal year 1986. Its companion program, Mass Transit Interstate Transfer, was funded from general appropriations at a level of $219 million in fiscal year 1986. Thus, in fiscal year 1986, the total available for highway and transit trade-in projects was $944 million. In fiscal year 1987, the administration proposes to combine both of these programs. Both highway and transit trade-in projects would be financed through the Highway Trust Fund at the reduced level of $500 million—a cut of 47 percent.

The drastic cut proposed in the important trade-in program, will disrupt the efforts of States to collect the moneys they are owed them for their trading-in of interstate construction projects. The actual building of the projects will be delayed for years. Using the example of the Westway trade-in, New York State would receive only about $135 million per year for these vital projects, rather than the $210 million that was anticipated by the State. Under this scenario, it could take about 12 years, rather than 7 to 8 years, to complete the trade-in. Since trade-in funds are not keyed to inflation, their value will be further diminished by this proposal.

I believe that the reductions in the trade-in program are insupportable. I will work with my colleagues to assure that more equitable language is included in the legislation reauthorizing this important component of the Federal transportation program.

Today, we will also consider the fiscal year 1987 budget for the National Highway Traffic Safety Administration [NHTSA]. NHTSA is responsible for administering the National Traffic and Motor Vehicle Safety Act, the Highway Safety Act, and the Motor Vehicle Information and Cost Savings Act.

For fiscal year 1987, the administration has proposed $194 million for NHTSA. This compares to a funding level of $259 million in fiscal year 1985 and an estimated level of $207 for fiscal year 1986. Fiscal year 1987 funding includes $6 million for programs encouraging the use of seat belts or passive restraints in motor vehicles.

Mr. Chairman, I am glad to have this opportunity to offer my remarks to the subcommittee today, I certainly look forward to hearing the testimony of today's witnesses from the Department of Transportation.

Thank You, Mr. Chairman.

STATEMENT OF SENATOR CHILES

Administrator Barnhart, I'm also pleased to welcome you to our hearing this morning. We look forward to receiving your testimony in support of your request for 3,215 full time equivalent positions and contract authority and budget authority of $12,811,496,000.

I was pleased to see your Surface Transportation Reauthorization Act of 1986 which would reauthorize the Federal-Aid Highway Program for 4 more years, or through the year 1990. That legislation would provide a spending ceiling of $12.4 billion or $200 million more than the post Gramm-Rudman level provided for you in 1986. This level is, however, almost $2 billion less than was authorized in fiscal year 1986 by the last highway bill passed in 1982.

I was somewhat concerned to see that you proposed to reduce spending for the completion of the Interstate System to $1.6 billion a year from its current level of $4 billion a year. For States such as mine which have approximately 90 miles of interstate gaps, this is bad news. For years we have had a commitment to complete the full 42,500 miles of Interstate System by 1990 and the proposal submitted by the administration would stretch out that completion date to 1998 and, in fact, leaves it to the discretion of the States as to whether or not they would complete the various gaps that now exist. I was pleased to see that your bill includes a provision for toll financing of new facilities. In the current climate of reduced availability for Federal funding, toll financing seems to be one way to increase highway capacity in spite of the fact that Federal financing for such activities is being reduced and eliminated. I am concerned, however, that your toll proposal would not permit financing of expansion of existing facilities but, instead, would only be for completely new facilities.

Mr. Administrator, I look forward to discussing these and other matters with you this morning and I look forward to hearing your testimony.

STATEMENT OF RAY A. BARNHART

Mr. BARNHART. Thank you, Senator. I am pleased to be here with Dick Morgan, so that if there are any problems he is Executive Director and is responsible for them. Any glory I will take.

Good morning, Senator. We will submit our statement for the record.

Senator ANDREWS. It has already been submitted. It is in the record.

HIGHWAY REAUTHORIZATION PROPOSAL

Mr. BARNHART. Let it stand. I will simply say that we have submitted our bill. As you know, it has not met with universal acclaim on the Hill. At the same time, I think most of the debate on it pertains not to the concept but to the dollar level.

We feel that it is a good balance between the needs of the Highway Program nationally and the Federal needs regarding the deficit. We have tried to take into consideration the Gramm-Rudman-Hollings Act, and we feel that we have made up to some extent for the loss of purchasing power by giving to the States more flexibility in administering their funds and targeting those funds to get the priority needs of the particular States.

With that, we will be happy to respond to any questions you have pertaining to the bill.

[The statement follows:]

STATEMENT OF RAY A. BARNHART

It is again a great pleasure to appear before this Committee and to present the F.Y. 1987 Budget Estimate of the Federal Highway Administration. Please allow me to introduce Mr. Richard D. Morgan, FHWA's Executive Director, who also has appeared before you many times as a witness.

Highway Reauthorization Bill of 1986

Before describing our F.Y. 1987 Budget Request, I would like to highlight our reauthorization proposal, the first year of which is the basis for our Budget Request.

The Administration's Reauthorization proposal would be the first major highway legislation to follow the 1982 Surface Transportation Assistance Act, P.L. 97-424, which authorized funds through FY 1986. The proposal was sent to you last month and with your permission, I would like to highlight for you what I think are the key concepts and provisions:

- The proposal covers a four year period from F.Y. 1987-1990 and extends the Highway Trust Fund and current user fees for four years through F.Y. 1992;

- The proposal authorizes about $14.17 billion annually from the Highway Trust Fund, with about $12.81 billion authorized for FHWA programs;

- The bill will also provide additional flexibility to the States by allowing first, higher non-Federal contributions to projects in all programs and second allow States to use Federal-aid funds for construction of new toll highways;

- Authorizations, in our legislative proposal, are set to equal estimated average user fee revenues, excluding interest, to the Highway Trust Fund. The bill [does] proposes this equality to ensure "deficit neutrality"; that is, the bill does not increase or decrease the annual deficit. While this results in lower budget levels than under the STAA, it is consistent with overall decisions by the President and Congress to reduce the Federal deficit;

- The block grant provisions included in this proposal will significantly increase the flexibility of State and local governments in the use of highway and transit funds with greatly reduced Federal requirements;

- The bill would also provide more flexibility to the States by combining the Federal-aid primary, the Interstate Reconstruction (4R), and the Interstate Construction programs into a single program called the Interstate/Primary, authorized at $7.8 billion;

- The Motor Carrier Safety Grants program would be financed through a $50 million set-aside from the combined Interstate/Primary program and would have contract authority;

- The bill would continue a separate authorization for reconstruction of bridges on the Primary System. Hazard Elimination and Rail-Highway Crossing programs would also be retained as separate categories;

- A Strategic Highway Research Program (SHRP) financed through a 1/4 percent take-down from certain authorizations will increase the effectiveness of the highway program by promoting research which focuses on, for example, the most critical pavement needs.

I look forward to working with Congress on this bill, which I think has many excellent provisions. Of course, total budget authority level is a legitimate concern. Let me point out that I think the proposal represents a balance between the need of the Nation's highways and the need to reduce the deficit to a level consistent with the Gramm-Rudman-Hollings Act. I think that when we have had the opportunity to "go through the numbers" together, you will see what I mean. For example, the Federal-aid Highways budget authority and obligation limitation proposed for F.Y. 1987, the first year of the reauthorization bill, exceed the authority and ceiling for the first year of the STAA and also exceeds the F.Y. 1986 limitation after the Gramm-Rudman-Hollings reductions. When you consider both the level of authority as well as the flexibility that the States would have in the use of these funds, I think you will understand the overall financial and programmatic merits of this proposal.

F.Y. 1985 Accomplishments

I would like to mention a few of the F.Y. 1985 accomplishments which we consider noteworthy as well as some of our emphasis areas for current and future years.

o Program Level

Obligations for "Federal-aid Highways" in 1985 exceeded $14.0 billion, surpassing 1984 by more than $1.0 billion.

o Interstate System

An additional 297 miles were put into service and another 333 miles were put under contract, leaving about 640 miles to be completed.

o Interstate 4R

Resurfacing, restoration, rehabilitation, and reconstruction projects were again emphasized--obligations for these activities were almost $2.4 billion.

- Bridge Replacement and Rehabilitation

  In the Highway Bridge Replacement and Rehabilitation program, obligations were almost $1.6 billion in F.Y. 1985.

- Highway Safety

  Approximately $339 million were obligated for the various safety construction programs.

- FHWA Disadvantaged Business Enterprise

  Prime contracts and subcontracts totaling $1.42 billion were granted to disadvantaged businesses and $296 million in prime contracts and subcontracts were awarded to firms owned and/or controlled by women.

Current and Future Emphasis

In fiscal year 1986, we will continue our efforts to fully implement the programs and activities of national interest identified by the Congress in the 1982 STAA. Safety, Disadvantaged Business Enterprise (DBE), effective implementation of STAA Funding, and quality design and control are FHWA's current emphasis areas. For F.Y. 1987, we will focus on successful implementation of the enacted Highway legislation as well as continuing our efforts such as Motor Carrier Safety Grants Program, quality design and construction, and the bridge management program.

Summary of the Budget

Our F.Y. 1987 Budget Request is based on the highway reauthorization proposal and the Administration's overall budget strategy of controlling Federal spending to meet deficit targets. A few key elements are:

Key Elements

- **Program Levels**

Program level or obligations are the most meaningful indicator of budget activity. We anticipate total obligations of about $12.8 billion, which includes $12.77 billion for the Federal-aid Highways account, $10 million for Highway-Related Safety Grants, almost $20 million for the Bureau of Motor Carrier Safety operations, $7 million for Highway Safety Research and Development, and the remainder primarily from carryover balances.

- **Federal-Aid Highways**

This account includes our principal construction programs and provides the basic foundation of the Government's efforts to assist States and localities in developing and improving the national highway system.

For F.Y. 1987, we are proposing an obligation limitation of $12.420 billion, with Emergency Relief and Minimum Apportionment exempt from this limitation. We are again proposing to end the proliferation of programs exempt from the limitation by limiting the exemptions to Emergency Relief and Minimum Apportionment.

The general provisions relating to the Federal-aid obligation limitation are similar to those contained in the F.Y. 1986 Appropriation Act. Specifically, the distribution of the obligation limitation would be based on a formula using both apportionments and allocations. There would be a redistribution of unobligated limitation after August 1, 1987, with priority given to States having large unobligated balances of apportioned funds and to States which have experienced substantial proportional reductions in their apportionments because of certain statutory changes. There would be a first quarter control on obligations with no

State obligating more than 40 percent of its share of the limitation and the total of all obligations by all the States could not exceeding 25 percent of the annual limitation; and a provision excluding from the distribution administrative expenses, Federal lands highways programs, the Highway and Transit Block Grant, the Strategic Highway Research Program, and the Motor Carrier Safety Grants Program.

- Motor Carrier Safety-Operations

Our request for the on-going motor carrier safety program is $19.515 million. Most significantly, the request would provide for 150 additional staff, an approximate doubling of the current field safety specialist staff. The increased staff will enable FHWA to carry out a more effective motor carrier safety program which concentrates on identification of problem carriers and increases safety compliance. Program activities will concentrate on increasing transportation safety related to high risk materials, and to provide safety equipment, hazardous cargo training and technical assistance to State enforcement agencies. The account, which is proposed to be financed from the Highway Trust Fund beginning in F.Y. 1987, would be increased by $6.213 million over the F.Y. 1986 appropriation. In addition to the increase for staffing, increases for contract research, data collection, and safety panel support are included in our F.Y. 1987 request.

The Secretary has announced a plan to hire an additional 150 safety specialists beginning in April 1986. With Congressional approval, we plan to reprogram up to $1.601 million in F.Y. 1986 funds to pay the salaries and other related expenses of the new safety staff. I know that you have been very concerned about highway safety in general, and this program in particular. I respectfully request your prompt approval of this reprogramming request.

- General Operating Expenses (GOE)

This account provides funding for virtually all of the salaries, expenses, and research and development programs of FHWA. Our request for a F.Y. 1987 limitation is $206.2 million compared with $195.0 million in F.Y. 1986 once the Gramm-Rudman-Hollings reduction is considered.

As always, the change from one year to another is the result of numerous "gives and takes". The adjustments to base and built-in changes, which amount to $6.899 million, include general inflation, increased personnel costs resulting from current legislation, and increased office space rental payments to GSA. The $4.3 million in GOE program changes reflects various decisions and priorities consistent with the legislative program and our on-going organizational goals. The budget levels planned for FHWA research have been coordinated with the SHRP to avoid duplication of effort. Most significantly, as part of the overall effort to shift Federal activities to the private sector, FHWA is making a good faith effort toward privatization of the operation of Turner-Fairbank Highway Research Center by contract with a non-Federal entity. Our F.Y. 1987 budget reflects a reduction of 158 personnel associated with this effort.

Other Details

There are a few other F.Y. 1987 budget details which I have not yet mentioned but which are noteworthy and I would like to discuss them briefly at this point.

Highway-Related Safety Grants

Our legislative proposal requests budget authority in the amount of $10.0 million for F.Y. 1987 and our budget proposes to utilize the entire amount.

Right-of-Way Revolving Fund

As part of the Administration's overall effort to assure prudent management of Federal credit programs, a limitation of $50 million on gross obligations is proposed for F.Y. 1987. Our legislative proposal provides for charging the States interest on advances made for the purchase of right-of-way, except purchases for Interstate construction projects.

Highway Safety R&D

Our proposed requests $7.0 million for F.Y. 1987. This amount, a reduction of $1.1 million from F.Y. 1986, provides for continuance of the on-going safety research effort.

Gramm-Rudman-Hollings Legislation

In implementing the provisions of the Gramm-Rudman-Hollings legislation, I am confident that we have followed followed the guidance of this Committee and have applied the reductions in both the obligation limitation and program authorizations proportionately among the various States and program categories respectively. The levels proposed in our F.Y. 1987 budget, when addressed collectively with the remainder of the President's budget, are designed to meet the 1987 objectives of P.L. 99-177. I would hope that we can work together on our budget requests so as to forego the "across-the-board" reductions as provided in the deficit control act and as applied during F.Y. 1986.

Conclusion

We will be happy to discuss our budget estimates in detail, answer your questions, and provide additional information that may be helpful to the Committee in reaching its decisions on our F.Y. 1987 requests.

PROPOSAL'S FUNDING LEVELS

Senator ANDREWS. Mr. Administrator, on February 5 Secretary Dole submitted for congressional consideration the administration's proposed Surface Transportation Reauthorization Act of 1986. This legislation contains annual authorizations for the Federal Aid Highway Program, $12.8 billion, including $2.2 billion for the Block Grant Program that may or may not be used for highway purposes.

How did you determine these program levels?

Mr. BARNHART. Consistent with the approach on the revenue neutrality, our bill is based upon an average of the 4-year income and the authorizations set so that our outgo in effect matches our income, not including the interest.

Rather than have the program fluctuate——

USE OF TRUST FUND INTEREST

Senator ANDREWS. What do you mean, not including the interest? I know what you mean. I am just wondering how you justify taking Federal highway trust funds and not using the interest derived from holding up those trust funds for the building of highways.

After all, that money was taken from the traveling public, commercial truckers, automobile drivers, whatever else, and you have invested it. In investing it and waiting and holding up construction, you have added to the cost of construction down the line because a yard of concrete poured now costs more than a yard of concrete poured 4 or 5 years ago.

And now you are telling us that you do not think it is incumbent to use the interest that you derived from holding back those funds for building highways?

Mr. BARNHART. No, sir; I am not telling you it is fair, nor am I telling you that I like it. I think it is a proper balance, however, when one looks at the needs of all of government. Here again, the Highway Program has not contributed to that $1.7 trillion deficit.

Senator ANDREWS. That is right, and it is a dedicated fund.

Mr. BARNHART. Yes, sir; and I agree with that.

TRUST FUNDS-ON-OR-OFF BUDGET

Senator ANDREWS. There is a great deal of debate in the Congress about taking dedicated funds off budget. When you tap the traveling public and you tap the trucking industry for these kinds of funds, then is it not important that we use those funds or their derivative for building highways?

Mr. BARNHART. Senator, I concur in the equity; however, all of life, including Gramm-Rudman, is a question of choices. It seems to me a $12.8 billion program on the highway end is a sensible, logical, and doable program where we can still maintain the condition of our highways and get through this next 4-year period, at which time I would hope that our program could go up to the level which the trust fund could carry.

Senator ANDREWS. What does using the interest on the highway trust fund for building highways have to do with Gramm-Rudman?

Mr. BARNHART. It is still Federal income. The trust fund would simply accrue that interest for later usage, but whether it is interest or if it is additional income it seems to me that we are simply trying to make a choice in order to help solve some of this deficit problem.

I believe that in spite of the lower level of funding, however, some of the flexibility we are giving to the States and the local areas will allow them to gain better use of the dollar and more productivity out of the dollar they spend. I am not saying I like it, but I say we can live with it and I think it is prudent management.

Senator ANDREWS. Have you talked to some of those States? Have you talked to the traveling public? Have you talked to farmers who are worried about getting bridges fixed? When you say that you are giving greater opportunities out there, all you are doing is cutting the amount of money that is available for building highways.

The problem that I see is that we have these trust funds. They are a separate and unique funding vehicle of the Federal Government. Do you favor, with your years of experience as Federal Highway Administrator, taking these trust funds off budget?

Mr. BARNHART. Certainly. That has been a position since before I came up here. At the same time, that in itself is no answer, Senator.

Senator ANDREWS. No; it is no answer but——

Mr. BARNHART. Because until the Congress curtails its desire to add additional demonstration projects, then I still do not think we are getting full value out of the dollars expended.

Simply to remove the trust fund is not going to solve our problem. Look at the 1982 act. We more than doubled the gasoline taxes, and then for a year and one-half I had to sit on $7.5 billion because at least part of the Congress refused to approve the ICE unless we had a quid pro quo of approving roughly another $7 billion worth of expenditures. So I am not sure that that is going to solve all of our problems in the highway program.

Senator ANDREWS. Of course, that was another committment, as you understand. There were some projects in Massachusetts, and there is some interest in Massachusetts in the demonstration project by a certain highly placed elected official.

This committee is assigned the responsibility of making sure we invest the money properly. I think the majority of this committee or certainly the chairman of this committee did not vote for Gramm-Rudman, or damned Rudman or whatever you want to call it. While it may be a vehicle for holding back Government spending, it is a very flawed vehicle because it cuts only at 21.7 percent of the budget.

This particular Senator has sponsored an across-the-board freeze which would have been far more equitable, and the thing that I am seeing now as you come up and testify and others come up and testify, what is being cut is not spending but investment. Building highways is not a spending program. It is an investment in the future of this country, just as educational programs and some foreign aid programs and some other programs are. I resent their being called spending programs. There is no way you can bring a deficit under control by cutting out your seed corn. Any farmer in Texas or North Dakota knows that.

ADEQUACY OF PROPOSAL FUNDING

The concern that we have is where we are going with these dollars, and are they enough to do the job, and are we spending them in the proper way. Your bill, Mr. Administrator, provides about $9.1 billion per year for the major system programs.

What annual level of funding for the major systems, interstate and primary, including bridges, would be necessary to meet needs based on the historic share of Federal participation?

Mr. BARNHART. I think you will find AASHTO comes up with a figure and other organizations come up with figures usually in the $19 to $27 billion level. Certainly there is need out there, and I am not about to say that there is not. I do believe that we can do a prudent and diligent job at this level of funding for your timeframe, and I would hope then that once Government gets this deficit problem at least under control, we can come back up to a $15 to $16 billion Federal program where it should be.

I will certainly defend the administration's judgment in trying to curtail some of these expenditures. At the same time, I would like to relieve some of the other problems which deny us the ability to prudently use our funds. We need some other legislative changes.

COST OF INADEQUATE HIGHWAYS

Senator ANDREWS. Mr. Administrator, again, this country is going to continue, Gramm-Rudman or not. We are going to have transportation needs, Gramm-Rudman or not. A year or two ago we had a study concluded that showed we needed $53 or $54 billion to replace the bridges that were not functional out in mainly rural America.

Now, you know, you can drive down a dirt road, and many of us do, hauling bulk commodities which we are taking from the farm or lumbermill or whatever, but you cannot go through a stream. You need a bridge. If you have to drive 7 miles around to get across the river because that bridge is not there, consumers of this country, the taxpayers of this country, are paying far more for getting those commodities that they eventually use than they would if they paid the taxes or saw the budget adjusted to take care of these investment programs.

How do you answer that? You know, we are saving a buck but we are charging $4.

Mr. BARNHART. Certainly we are deferring some of these costs. There is no question about that.

Senator ANDREWS. We are not deferring. We are loading onto the taxpaying public charges in lieu of taxes when we short transportation, are we not?

Mr. BARNHART. Yes; I think we are.

FUNDING NEEDS

Senator ANDREWS. That is why I asked what level of funding—you are in at $9.1 billion. What level of funding would be adequate to meet the needs on the traditional pattern? That comes closer to, well, I thought it was $12 or $13 billion. The figures have escaped me, but I think it is closer to $17 billion. If we were going to do it by the traditional balance that we established some years ago in this country, we would be, instead of at $9.1 billion, we would be at $17 billion. Is that essentially correct?

Mr. BARNHART. Dick.

Mr. MORGAN. I think that is probably a little high. Our estimate in 1983 was $19.6 billion by all levels of government for all Federal aid systems, not just the major systems.

Senator ANDREWS. OK, what is your figure?

Mr. MORGAN. Right now we are talking about $26 billion for all Federal aid systems, not just the higher order systems. The AASHTO report is about in the same magnitude.

Now, they are based on some different assumptions. I do not have the figures with me just on the major systems, and we would be glad to supply those for the record.

Senator ANDREWS. I was guessing $12.6 to $13 billion instead of the $9.1. Staff told me $17 billion. You tell me $17 billion is a little high. Does that get us down around $14 billion?

Mr. MORGAN. I would think so.

Senator ANDREWS. It is a long way around, but we got you to say that if we were doing it according to tradition we would be at a $14 billion level instead of $9.1 billion. Now let me check that back with a couple of other figures.

The American Association of State Highway and Transportation Officials said in its report labeled the New Focus for America's Highways, recommendations on the Federal Aid Highway Program, that a total of $26 to $27 to $29.7 billion in Federal, State, and local funds will be needed annually through 1995 to preserve the Federal aid highway system.

Do you agree with these figures?

Mr. MORGAN. They are pretty close to our figures, Senator, yes, sir.

Senator ANDREWS. If you agree that the need is in the neighborhood of $26 to $29 billion and we are funding to an equivalent of $12 billion in obligational ceiling, it is pretty darned far from the target, is it not?

Mr. BARNHART. You are talking about that need in total, and you are talking about not on the 75–25, 90–10 ratios. You are talking about more of an average of something over 50, so if you use the $28 to $29 billion figure you get down to about a $14 billion Federal program. No question about that.

Senator ANDREWS. Right back where we said—so you are only 50 percent off of the mark on this program we have established as more an investment program than a spending program.

HIGHWAY FUNDING AND NEED TO CONTROL DEFICIT

Mr. BARNHART. Here again, needs. I am not about to say there are not needs out there, Senator. I say it is a question of choices, and we think we can still maintain our system and still provide some improvement in it. We drive them just like anybody else. That is our bailiwick. We are advocates of the highway community, not for ourselves but because of what the country demands and what the country needs.

I still say it gets down to a question of what can you do, and I think that we can tighten our belts for 4 years and still survive as a country and still maintain a satisfactory condition of our highway system. It is not my druthers. If I had my druthers we would be up to the levels of the 1982 act with no obligation limitations. There is no question about it.

Senator ANDREWS. We are going to be meeting this afternoon, my colleague from Florida and I on the Budget Committee and my colleague from New Jersey as well. Who knows, we may be able to draft a budget that makes a little more sense than Gramm-Rudman.

Senator LAUTENBERG. Especially with Mr. Barnhart's recommendation.

Senator ANDREWS. We will follow his recommendation, and we will determine whether it is more important to build highways in Texas or highways in Nicaragua. You know, those are different features of the President's budget as well.

GASOHOL EXEMPTION

Let me get to another subject. I know my colleague from Florida has some questions, as does Senator Lautenberg. Your budget justification states that repeal of the current Federal exemptions on gasohol, methanol, and ethanol would increase revenue to the highway trust fund by $506 million in fiscal year 1987. How much revenue is this exemption repeal estimated to generate in fiscal years 1988, 1989, and 1990, those three following years?

Mr. BARNHART. Our proposal is based upon the repeal of the gasohol exemption, so that is already calculated into our income. What I would hope, Senator, is since we have reached an agreement on this revenue neutrality as it pertains to our level of funding, if we can get additional funding, and I have no commitment from the administration about this, but it seems to me it is logical that if our share of the Government cuts is already represented in the $12.8 billion Highway Program, then any increase in revenue into the trust fund I would hope would be able to be put into the system immediately.

If we can eliminate the mob on its evasion of Federal taxes, which I understand is close to $1 billion a year; if we can gain more income through the elimination of the gasohol exemptions and other unfair, I think, exemptions then I would hope that additional income into the program can be used in the program and not simply deferred since we will already, through what we are proposing, have done our share of trying to get this budget back into balance.

Senator ANDREWS. Your proposed program levels for fiscal years 1987 through 1990 are predicated on your concept of deficit neutrality; that is, the amount made available should equal the average amounts projected to be paid into the highway trust fund.

If you are unsuccessful in achieving repeal of these exemptions, would it be your position that annual authorization should be reduced by an amount equal to the value of these exemptions?

Mr. BARNHART. I see no reason why that should be done. I do not know why that is a real threat, because frankly I think we have been conservative in our revenue projections.

GAS TAX INCREASE

Senator ANDREWS. Given the current precipitous drop in the price of oil, proposals have been made to increase the Federal gasoline tax as a means of reducing the Federal deficit.

Would you oppose a gasoline tax increase as a means to reduce the Federal deficit?

Mr. BARNHART. I have opposed that since time began and will continue to do so whether it is diesel fuel taxes or any other taxes. I do not think simply more money is going to solve all of our problems. I think there is so much slippage in the use of our funding now that we ought to tighten up that which I perceive to be a waste before we talk about increasing taxes. Others would disagree.

ELIMINATION OF ONE-HALF PERCENT INTERSTATE MINIMUM

Senator ANDREWS. Why does your proposed formula for the Combined Interstate Primary Program retain a one-half-percent minimum for the interstate 4R and primary components but eliminate the one-half-percent minimum for the interstate construction component?

Mr. BARNHART. We have long felt that the one-half percent out of interstate construction is unwarranted. It is there politically, quite frankly. We have got 14 States that have sufficient funds to complete their interstate. If it is supposed to be funding for completion of the interstate, once your interstate is completed how can you justify having an additional one-half percent out of that pot to complete that which is already completed? So we propose to have that eliminated.

We have retained the minimum half percent on the 4R portion, however, because that is resurfacing, rehabilitation, et cetera, and it seems to make sense to me. We believe that interstate construction funds should be going to the completion of interstate. It is that simple.

RATIONALE FOR ELIMINATION

Senator ANDREWS. The point is—and sure, I am biased because my own State of North Dakota would lose more than $18 million a year under your proposed formula, but what your formula does is penalize those States that did what they were asked to do by the overall Federal Government in moving to completion of the interstate system.

They got them in. Those miles of concrete have been down for some time, and because they are bearing most of the heavy traffic, they have been breaking up. We have been using that $18 million a year that we get to rebuild portions of the interstate.

What good does it do if a State that went out and built its interstate 15 or 20 years ago when it was asked to for the benefit of the through-traveling public, and now it is seeing those interstate sections breaking up from wear and does not have the wherewithal to fix them up?

Mr. BARNHART. At the time that commitment was made, we did not have the programs for the rehabilitation and reconstruction that we have now. We have tried to address that through additional funding precisely to help the States that do not have the tax base within their own State.

You know, coming from Texas, we historically have received 74 cents back on the buck. I have never complained about that because it seems to me it is important to us in Texas or in other donor States that we do have a national system of highways.

Senator ANDREWS. That is right, we need a national system. The thing you are doing is—you are talking about coming from Texas. We mentioned earlier this morning, Texans are North Dakotans who flunked climate. You could not stand that tough northern weather. We have a saying that 40 below eliminates the riffraff, but it is also damn tough on highways. You get that freezing and thawing through five or six winters under those highway slabs, and they break up.

You have been up there. I wish you would drive on some of those sections, and you would see why this reconstruction is necessary, not just for our State but for the through traffic that comes from the west coast down to Chicago. Those heavy trucks need to have a stable roadbed.

That is why that one-half of 1 percent is extremely important for those smaller States. They did what they needed to do, put the construction through to its completion, and now they have to maintain a viable highway system. I would hope that you would recognize that some of that reconstruction is indeed important.

Mr. BARNHART. There is no question about it.

TOLL MILEAGE AND INTERSTATE 4R FORMULA

Senator ANDREWS. Why is the interstate system toll mileage and vehicle miles travel being added to the interstate 4R component of this formula?

Mr. BARNHART. Because, again, out of equity, it does have an interstate designation, was not built with Federal funds, but now we are providing some rehab funds for that purpose on those toll facilities.

Senator ANDREWS. That reduces even further the share to States like North Dakota.

Mr. BARNHART. If you did not have that, you would have a further burden on those other facilities that are there. I think it is fair and equitable, and we would change our toll policy right now to permit States, again, more latitude.

There is not going to be enough money to go around. That is why we are saying any State under our proposal could use some of its Federal funds to make feasible a toll road if they so choose in order to help minimize the burden on the rest of the country. That would be on new locations.

Senator ANDREWS. There is not enough money to go around because some States postponed and postponed and postponed, and now they are building some interstate sections particularly in high density population areas that are costing five to six times as much as they would have cost if they had built them in a timely fashion.

Mr. BARNHART. Yes; I cannot quarrel with that.

Senator ANDREWS. That is depleting the fund, but then if you take the smaller States or the States that completed out of the reconstruction phase or the ability to do the job of reconstruction, you are shorting those miles of highway that have outlived their usefulness. That is the problem we face.

It is a matter not of parochial interest. It is a matter of interstate transportation in order to get those trucks moving across those areas. My car does not bounce nearly as badly on those bad sections of I-94 as a truck does that is going through.

RATIONALE FOR CONTROVERSIAL POSITIONS

Mr. BARNHART. We have had to make some choices in the same way we have capped the minimum allocation pot at $250 million, which has not warmed the hearts of my Texas or California colleagues. Here again, it is a question of choices, and we have tried to get balance into the program where we have some equity. We think we have approached that.

I believe that while our—we would recognize our proposal would be criticized on both sides of the aisles and both bodies. I think once one looks at the dollars, if one can accept the dollar figure within which we feel we have to work, you will see the merits of what we have tried to do.

DISADVANTAGED BUSINESS ENTERPRISE [DBE]

Senator ANDREWS. The 10-percent set-aside for disadvantaged enterprises mandated by section 105(f) of the STAA of 1982 expires at the end of fiscal year 1986. Are you proposing to continue this program?

Mr. BARNHART. I am sure it will be continued in some form. The determination has not yet been made on just how.

DBE PROGRAM PROBLEMS

Senator ANDREWS. Are you encountering any problems with the program?

Mr. BARNHART. Significant problems, Senator. Anytime a program grows as rapidly as this has grown you are going to have abuses. Unfortunately, when you deal with issues of race in politics, they are tough to handle.

The abuses in this program, however, have nothing to do with race although that is how it is portrayed. If we had a special program, as I have said all over the country, for blue-eyed Swedes or brown-headed Rotarians, we would have the same abuses of fronts and frauds.

Anytime you expand a program like this without regard for the capacity of businesses to participate, then you are going to have the abuses we have here. Where you have States with 2½ percent minority population which in itself bears no relationship to the number of business entities that can participate in this thing called highway construction, yet those States are making 11 and 12 percent participation, you have got—I mean, it just stands to reason you have fraud, you have abuse, but nobody wants to handle it.

We are trying to figure out how to handle it without diminishing our efforts to open the system up for minority and female participation. That should, I believe, be a responsibility of Federal Government to see that no one is denied the right to participate. Unfortunately, that is not how this program has been working, even though we have tried desperately to make some sense out of it.

We have had some good things occur as a result of this program. We have lots of abuses and lots of majority-owned businesses, I think, who cannot now get jobs because the jobs are gravitating toward specialty areas that are low capital intensive and low skill intensive.

Senator ANDREWS. What happens in a State like mine is you cannot find that number of minorities, so the local firms cannot bid. They have to go three or four States away to find a firm who comes in, and they bid, and they bid at even higher prices in order to meet your minority quota, or somebody phonies up some shall we say——

Mr. BARNHART. A front organization, precisely. What is your State making, 10 percent? You are making 10 percent.

Senator ANDREWS. Fine, because you should have seen the problem we had trying to get the National Guard with the proper quota. We had to recruit people from Chicago. That made a lot of sense, too.

Mr. BARNHART. Senator, I understand, yet the Congress is going to have to address this issue. We will have to address the issue.

CHALLENGE OF IMPLEMENTING A FAIR DBE PROGRAM

Senator ANDREWS. We appreciate your comments on it very much. We will continue to try to do what is equitable and fair. We have a number of disadvantaged in our own State that need those kinds of job opportunities. We would like to be able to meet them instead of having to do them on an artificial basis. That is the challenge that we face.

Mr. BARNHART. Believe me, with our limited capacity we do not like having to get involved in the corporate structures of these businesses to try to determine what is legitimate and what is not. I have objected to the program, but we went from the prior administration, before the Reagan administration, from $230 million with minority businesses in 1 year to $358 million my first year to $415 million the second year in minority participation. It was evolving gradually and methodically.

Then the Congress passed 10 percent, and we jumped $400 million in 1 year, and then we jumped another $400 million. We did $1.4 billion last year. Obviously there is abuse in the program, but I want to tell you in all candor we are doing our best to try to make some sense out of this.

Not to be insensitive to the needs of minorities nor the majorities who are being hurt, but it is tough in the political structure to do so.

Senator ANDREWS. It does not make much sense for out-of-State contractors who are phonying up the records to take away jobs from the in-State contractors on some phony percentage basis. I would hope that you can do a better job of policing than you seem to have been able to do in the past.

Mr. BARNHART. We do not issue the certifications. That is done by the States, and I do not think you want us to get into national certification.

Senator ANDREWS. We do not want you to, but by golly we want you to give them some pretty stiff guidelines so that they can detect this fraud business that is coming in from outside. We also want to make sure that we have some leeway so that we can take care of our own disadvantaged, particularly our own small business people who need these kinds of job opportunities.

Mr. BARNHART. I understand that, Senator, and all I can tell you is that we are doing our best on this. We have some 11,000 or 12,000 certified minority firms around this country. I have 3,300 people nationwide to do all that we have to do in this Federal program. We cannot get into all of that, and I do not think we want the Federal Government to be into all of that activity, but it is there. We will continue to try to deal with it.

Senator ANDREWS. Senator Chiles?

INTERSTATE FUNDING LEVEL

Senator CHILES. Thank you, Mr. Chairman. Mr. Administrator, I was disappointed to see in the Surface Transportation Reorganization Act that was submitted on February 5 that the administration is proposing to reduce the funding from $4 billion a year to $1.6 billion a year in the interstate funding level.

When Secretary Dole was before the committee, we asked her about this. Mrs. Dole indicated the completion of the interstate would be stretched out to 1998. Not only has the funding level been reduced but the program is included in the new Block Grant Program that would further permit States to use interstate construction dollars for either interstate maintenance, primary highway needs, or bridges on these two systems.

With 90 miles of interstate system yet to be completed in Florida, needless to say the State is not too pleased with your proposal for interstate funding. Why is the Department reducing the longstanding national priority of completing the interstate system?

RATIONALE FOR INTERSTATE PROPOSAL

Mr. BARNHART. Senator, the interstate system is about 97 percent complete, so we have 3 percent remaining in less than 90 different gaps. I have, quite frankly, felt for some time that we should redefine what completion is because 30 years ago—of course, we are in the 30th year now of the interstate system—a line was drawn that said this was the interstate. I think times have changed and needs have sometimes changed. Every State looks at that that is in their State as remaining incomplete and feels it is an entitlement.

I did not feel that we could survive politically by us, as a bureaucracy, redefining completion, but there are some sections that in all candor I just do not believe would see the light of day except for the fact that it is only 10 percent local funds and 90 percent out of the Federal till.

What we have done is reduced the amount available for interstate completion down to that $6.4 billion, but we are putting it into a pot and allowing the States, then, to target those projects which they think are of priority and necessary to an integrated highway system.

I would point out that some of those other funds that you refer to can also be used for interstate. We have made that a flexible pot so that a State will have more resources than simply the $1.6 billion if that is their priority. It does negatively impact some States. Florida happens to be one of them, and I will acknowledge that, sir.

IMPACT ON STATE OF FLORIDA

Senator CHILES. We feel like here you are sort of changing the rules, and we are perhaps getting delayed. After long negotiations the State of Florida has reached agreement with you in the last year with all aspects of the Alligator Alley project in south Florida. The land acquisition is now underway, and the plans call for completion of this project by 1989.

As you know, the project is coordinated with an effort to add 128,000 acres to the Big Cypress National Preserve by using highway severance and damage funds to replace this surrounding line. Now a slowdown or a stretchout on interstate completion could complicate that project.

Have you considered the impact of the interstate construction slowdown proposals on such projects such as Alligator Alley in Florida as part of our interstate completion of I–75?

Mr. MORGAN. We looked at some of the gaps when we went for the combined pot, and as the Administrator said we recognize that it may stretch out completion of segments such as Alligator Alley in Florida, but it is a State call. They can use their entire portion of the combined pot on that completion if they wish, or they can split it and use part of it on their 4R and primary system. It becomes a State choice on whether to complete the remaining interstate segments.

RATIONALE FOR 4-YEAR BILL

Mr. BARNHART. Regarding the level of funding, one more point. Initially, I wanted an 8-year bill; however, because of the $12.8 million level I did not want anything beyond a 4-year bill, because I did not want to indicate that we would continue to fund this program at that level, which I think is lower than what it should be.

So we have a 4-year bill. At the end of that 4 years I hope that we will be able to get the program back up to the $16 billion level, or what have you, where it should be. Certainly it will drag out some projects, but I am not sure how rapidly Alligator Alley, for instance, would be able to utilize funds within the next 3 or 4 years to get going. We have, of course, turned it loose.

Senator CHILES. We think it is ready to go.

Mr. BARNHART. I know. We have authorized some of that, Senator. It does carry 4,000 vehicles a day, and I think they project 30,000 in the year 2004, so there is time after this 4-year timeframe if it has to be stretched out. The right-of-way is basically secured, so I am not sure that that project per se is endangered except from perhaps a timeliness of completion that you are concerned about.

COMMITMENT TO COMPLETE

Senator CHILES. I note that in your new authorization bill—let me just say on that other just quickly, I hope Congress will not go back on what has been a commitment that we have been honoring for a long time that States will be able to complete their systems. To now change that just because we are 97 percent complete, I do not think is fair at all to States like Florida that have a remaining section.

TOLLS AND EXISTING HIGHWAYS

In your new proposal for reauthorization I note that you have provided for the use of some toll funds, and I think that is positive that there can be a mixing in the toll funds. I notice that you are only talking about new construction.

What about States and localities that are saying we have existing construction, but we are talking about a toll fund that would be just adding additional lanes to that existing construction? It would seem to me that it would make sense rather than just to say that we are talking about new construction. If we have got something out there that we need to add some lanes to and we are allowing flexibility, we allow the same flexibility where there was some existing construction.

Mr. BARNHART. I understand, Senator, and there are other States that simply want the authority to put tolls on existing interstates, for instance. My position has been that we would permit this on new location, period. Again, it is a choice. Perhaps you would call it arbitrary. I think it is a logical choice, and I would have to stand by that.

Senator CHILES. Mr. Chairman, I have a number of additional questions. I want to submit them for the record in the interest of time.

Senator ANDREWS. Senator, we will put it in the record.

Senator Lautenberg.

ADEQUACY OF FUNDS

Senator LAUTENBERG. Thanks, Mr. Chairman. Mr. Barnhart, I was interested in some of the philosophical comments that you made.

You said more money is not going to solve these problems. I take it, therefore, the reverse is true and that less money will solve our problems?

Also your comment on more discretion in the use of the funds. If the funds are inadequate to begin with, then no matter how much discretion you have—the breadwinner says to the homemaker, you know, I used to pay all the bills separately and it cost me $1,500 a month. Now I am going to give you $1,000 a month. Use your discretion on how you are going to deal with it. It gets pretty tough, especially if the rent is $1,000.

Mr. Barnhart, last year this committee provided funding to secondary and urban roads, bridges, mass transit to the tune of $5.9 billion. These are programs that are, under your proposal, going to be folded into the Urban Mobility Block Grant.

Now, you propose funding that grant at a $3.3 billion level, correct?

Mr. BARNHART. Yes.

BLOCK GRANT FUNDING

Senator LAUTENBERG. That is a reduction of $2.6 billion? The arithmetic works out. There is no doubt about that.

Mr. MORGAN. I believe the $5.9 billion included transit funding because the highway element of the block grant is funded at about the same level as it was in 1986.

Senator LAUTENBERG. OK, well there is transit money in there, and that is precisely the amount that was provided. The $2.6 billion was provided for mass transit, so that means that in some form of disguise, that is really a cut in mass transit of 66 percent.

Mr. BARNHART. I do not think there is any question that there is less money in there on the transit portion than there was before. On the Federal highway side, we have retained the same level as proposed.

Senator LAUTENBERG. Except that when the decisions are going to be moved away and the options are going to be available, then those communities that have mass transit needs that also have urban highway needs are going to be faced with the dilemma of not being able to take care of one or the other.

Mr. BARNHART. Yes; they will have to make choices.

Senator LAUTENBERG. They will have to make choices, and what happens to the administation of those mass transit funds? Would there be $1.2 billion available, roughly $1.2 billion left for mass transit dedicated funds?

Mr. BARNHART. That is right.

ADMINISTRATION OF BLOCK GRANT

Senator LAUTENBERG. How do they get administered?

Mr. MORGAN. The entire $3.3 billion, Senator, is available for either highway or transit projects, so it is administered as a single fund. Areas over 200,000 population would have an attributable share that they were assured of getting; that it would be a State and local choice or a local choice in the larger areas on how it would be spent and it would not be administered on a project-by-project basis.

We would not be involved at the Federal level on individual projects. We would accept certification up front that the States and locals would comply with certain Federal requirements. The funds would be apportioned, and then after the fact on a periodic basis there perhaps would be audits to see that those funds were spent the way that the certification said they were going to be spent.

It is relatively simple in administrative detail, but again the entire pot of $3.3 billion is available for either mode, highway or transit.

Senator LAUTENBERG. Transit funds go to transit authority, correct? The highway funds——

Mr. MORGAN. They pass through the State, and whoever the State is, or the designated recipient I believe on the transit, would have control of those.

Senator LAUTENBERG. You are going to be involved in the review of those programs more certainly than you are now?

Mr. MORGAN. We do not anticipate it, Senator. If anything, we think we will be less involved.

COMMITMENT TO ONE PENNY FOR TRANSIT

Senator LAUTENBERG. In 1982 the Congress made the decision to raise the gasoline tax by 5 cents, devoting one penny of that to mass transit. You supported that bill.

Mr. BARNHART. Yes, sir.

Senator LAUTENBERG. Now you put forward a proposal that has the net effect of letting that dedicated 1 cent for transit essentially be used for highways; letting it.

Mr. BARNHART. Yes; because we think that should be the local choice as to how they want to——

Senator LAUTENBERG. Earlier, Mr. Barnhart, you did say that policy decisions were made earlier on, and that your responsibility was to support those policy decisions made by the Congress, if I heard you correctly.

Mr. BARNHART. Yes.

Senator LAUTENBERG. Now you are saying, OK, that ought not to be the way. The commitment to mass transit ought to be shifted in a way so that communities or agencies have the option of how they are going to use those funds.

Mr. BARNHART. Yes; that is what we are proposing if the Congress concurs.

EFFECT OF PROPOSAL ON TRADE-IN PROJECTS

Senator LAUTENBERG. Last year you approved the largest interstate substitute proposal ever, when the Westway highway project was traded in for $1.7 billion. Now your budget proposal, however, makes no room for that huge trade-in. In fact, you cut the funding for all trade-ins by $380 million.

Now how do we deal with the Westway trade-in commitment, given your budget proposal?

Mr. BARNHART. It is going to stretch out some.

Senator LAUTENBERG. So that States like mine and others who are looking for a share of the pie are also going to be doing some considerable stretching in this connection?

Mr. BARNHART. Yes, sir.

Senator LAUTENBERG. That is not very satisfactory. I would be interested in the comments of my colleague from New York on that issue.

The interstate substitution projects have been funded each year on the assumption that their completion is going to coincide with the completion of the Interstate System, correct?

Mr. BARNHART. Yes, sir.

Senator LAUTENBERG. So now are abandoning that goal, however.

Mr. BARNHART. Now we are up to about 1998.

Senator LAUTENBERG. About 1998. OK, so we are talking about the substitution program that extends that far as well.

Mr. BARNHART. Yes, sir; at the $500 million level, if after this 4-year timeframe when the program gets back up into the $16 billion level, why I would assume that that pot also would probably be significantly increased.

Senator LAUTENBERG. I guess what we are saying in summary, Mr. Barnhart, is that you are focusing on the budget problem as opposed to the functional problem.

Mr. BARNHART. Certainly we are taking that into consideration. No question about it.

Senator LAUTENBERG. There were commitments made to complete highway systems, to restore and upgrade secondary roads, bridges, et cetera, provide money for mass transit, dedicated funds with the large part coupled with some general revenues, commitments that were made. Now you have not requested any general fund support for mass transit.

Mr. BARNHART. No, sir.

UMTA FUNDING CONSIDERATIONS

Senator LAUTENBERG. So we are saying we should abandon those projects in terms of our commitments.

Mr. BARNHART. That is in a different area. Really, the UTMA problem is not within our jurisdiction, but I do concur.

Senator LAUTENBERG. It is too bad you have come to that conclusion.

Thank you, Mr. Chairman.

Senator ANDREWS. Senator D'Amato.

EFFECT OF PROPOSAL ON SUBSTITUTE PROJECTS

Senator D'Amato. Thank you, Mr. Chairman. Mr. Chairman, I, too, share your concern with respect to the trade-in funds inasmuch as there are 21 States which have traded in portions of their authorized interstate construction projects in order to receive those funds. It seems to me that the cutbacks of 47 percent really strain that program. I think it is a disproportion. It is a kind of double whack. Let me suggest why.

First, States make a conscious effort to utilize these trade-in funds for highway projects. They count on them, and now as a result of what you would have to say is an extraordinary reduction we almost doubled the length of time in which those dollars will be made available, stretching it out over, again, an inordinately long period of time. In the case of New York obviously that translates into many, many, many dollars that will be lost, real dollars, because a dollar that is due and owing or coming today as opposed to one that is paid out 10 years later, obviously with inflation there is a real diminution. So, Mr. Administrator, I ask you to comment on that effect, that impact.

At the same time, we move in the area of mass transit and take the penny-a-gallon set-aside and combine it into the so-called Urban Mobility Block Grant, and the resulting fact is a 65-percent cut in transit funds with a total elimination for operating assistance for the large urban centers. So what I am suggesting is that the urban centers get almost a double hit in this situation.

What was the logic, No. 1, in the trade-in reductions? Do you not think it was disproportionate in terms of a fair and balanced cut? I recognize budget constraints, but a 47-percent cut?

RATIONALE FOR PROGRAM FUNDING LEVELS

Mr. Barnhart. We looked at our income projections. We looked at carrying a $12.8 billion program. Now if you are going to increase one of those categories, someone is going to have to fall. We do not want to reduce the highway portion going to the urban areas. The urban, secondary, off-system bridge, that pot of money remains what it was a year ago. We are not trying to defray costs by reductions there at all. I wanted to keep that intact. We needed a satisfactory bridge program, and I think we have that.

We have taken our cut in the highway portion out of interstate completion. Now we have had to limit the substitute program to the one-half billion. We have had to limit the minimum apportionment to $250 million, eliminate the one-half percent out of interstate construction.

Now if you are going to increase any one of those, something is going to have to go down if you stay within the $12.8 billion, so that is the crux of the matter. What I said earlier, if one can accept the $12.8 billion and see how we have tried to balance these programs, I think you will find we have tried to do a prudent job of it. It will hurt in some areas more than others. I certainly admit that.

Senator D'Amato. New York being one of them.

Mr. BARNHART. New York, Texas, California; when you cut out some of that minimum allocation they do not like it either. North Dakota does not like it, but that is the line we are coming to. It is that bottom line of $12.8 billion, and I still say that for 4 years we can survive with that and have a satisfactory program. That is 50 percent more than it was before we doubled the gasoline tax. I cannot quarrel with you about needs.

PROPOSAL TO ELIMINATE BUS EXEMPTION

Senator D'AMATO. Let me just touch on one other aspect, and it might be a minor point. I see that there is as proposed elimination of the exempt for motor fuel taxes for both the private and public bus operators.

Mr. BARNHART. Revenue producing, yes.

Senator D'AMATO. Again, all of these operations or most of them are subsidized by local municipalities, and so when we do that are we not really shifting the burden, an additional burden, onto State and local government? Why would we—that is another hit for mass transit operations. Why would we want to drop that exemption on motor fuel taxes for private and public bus operations?

Mr. BARNHART. I think that subsidy, because that is what it is, is unfair just as I think an exemption on gasohol is unfair. We are talking about——

EQUITY OF EXEMPTION

Senator D'AMATO. Let us not talk about gasohol, Mr. Administrator. What I would like to ask is to whom do you think that is unfair? We are talking about the exemption for motor fuel taxes of private and public bus operations. Now, do you think that is unfair?

Mr. BARNHART. Yes.

Senator D'AMATO. These systems generally are run at substantial losses. The fare box—you and I know that you are not going to have systems in large urban areas that are self-sustaining, so the local municipalities are generally contributing substantially by way of taxes.

All I am saying is now to place another burden on them because you raise the cost, it seems to me that that does not make sense. You may say it is a subsidy, but now do you not just shift that burden, that higher operating burden, to the local municipality?

Mr. BARNHART. Either that or the people who ride the facility. Truckers do not feel they ought to be paying more subsidy. The average passenger car driver does not. Who is going to pay it? You have a choice. It is either going to be the Federal Government, the local government, or the user. I ride public transit. I think it is great, a tremendous buy on this system here in Washington. If the rest of the American people knew the kind of dough they put into it, I think they would go bonkers.

Senator D'AMATO. I am just going to suggest at a time we are attempting to make budget reductions, there seems to me to be a disproportionate share of the cuts coming down into the large urban areas even as it relates to this motor fuel exemption. That is kind of like the little twick, the added thing. You lose the one penny set-aside for mas transit, one penny per gallon. You now fold that in. That was strictly supposed to be mass transit, and the only way you got the nickel was because of that penny.

Mr. BARNHART. Or vice-versa; the only way you got the penny is because we got 4 cents in the other direction. It was a quid pro quo.

Senator D'AMATO. Now we come through the back door and we take out the penny, and that is exactly what we do; savage the mass transit systems; totally eliminate operating assistance as it relates to these large urban centers. Now we come in for a little good measure, and I do not think it amounts to a great deal of revenue, and we say oh well, the motor fuel tax for private and public bus operations, that would be eliminated.

I am just suggesting that it appears to me that those cuts are not the cuts where we talk about evenhanded. I think they are disproportionate. I understand, and I would not object to some cuts but I think they are disproportionate. I just share that with you, Mr Administrator.

Thank you, Mr. Chairman.

Senator ANDREWS. Thank you, Senator.

Senator Byrd.

WEST VIRGINIA FLOODS

Senator BYRD. Thank you, Mr. Chairman. Mr. Barnhart, I would like to talk briefly about the recent floods in West Virginia and what is being done, what can be further done to help?

Congress adopted my amendment which raised from $30 million to $55 million the cap on funding for a State which has been so distressed as West Virginia for the purpose of making emergency repairs or rebuilding bridges and roads.

My first question would be how much has been provided to West Virginia from the emergency relief fund since the November floods?

Mr. BARNHART. It was $53-plus million, Senator. I want to say another thing. As a private sector person who came up here, I am very proud of the bureaucracy I head. I think Federal Highway is a superb Federal agency, and I am very pleased that as soon as the call went out from the Governor regarding that problem, our folks were there the next day.

PERFORMANCE OF FHWA ORGANIZATION

I believe within 2 weeks the State of West Virginia received some funds from Federal Highway Administration because of the expeditious treatment they gave, very good treatment. I am very pleased with that. That is not for me, but that is for the bureaucracy, because they do a good job.

Senator BYRD. I am very pleased with it, also, and I talked with Governor Moore at least a half dozen times in 1 day. I think that the State administration, FEMA, the various agencies on the whole performed very well, better than was the case in various floods in West Virginia prior to this one.

I have been on Capital Hill now for 34 years, and I have seen a good many floods in southern West Virginia but this one was the most devastating one that I have ever seen. One had to be there to really believe it. In Preston County, for example, a large steel girder railroad bridge was washed off its foundation. Five hundred yards downstream it hit a concrete highway bridge and knocked it over. You could not believe that that would be possible unless you were there to see it, so you do not have to tell me how well the bureaucracy worked in this thing.

I was over there a good many times. I spoke with Governor Moore. He and I served together in the Congress. We were both in the State legislature, and I was very pleased at the way the State went to work and very pleased at the way FEMA on the whole—of course, one cannot say that there were not some problems, but FEMA has tried to be very responsive.

I am asking you, what is the present estimated cost for all road, bridge, and trail repairs as a result of those November floods? In other words, we spent $53 million already. How much more do we need?

ESTIMATE OF NEEDS IN WEST VIRGINIA

Mr. MORGAN. Senator, I believe the estimate for the Federal aid system is about $53 million. I do not really know what it is off the Federal aid system, which would be the FEMA portion. We can supply that information if you wish.

[CLERK'S NOTE.—The information was supplied to Senator Byrd's office.]

I also believe one statement, Senator, I think $56 million is what we have originally estimated for West Virginia. I do not believe we spent that much. I believe we have allocated to West Virginia in the neighborhood of $26 million so far, but the rest is available.

Senator BYRD. So what do you estimate to be or do you have an estimate of the overall cost with respect to your programs, roads, trails, bridges, and so forth that would be needed to deal with this problem?

Mr. MORGAN. Our current estimate is approximately $53 million for the Federal-aid system and Federal roads which does not cover the local roads, the off-system, some of the other things that FEMA would be involved with. I do not have the numbers for the FEMA portion.

Senator BYRD. Do you think $56 million is the overall estimated cost for your——

Mr. MORGAN. Yes, sir; $53 million for Federal-aid and Federal roads.

Senator BYRD. Do you do any repairing of trail and foot bridges out of this funding?

ESTIMATE OF NEEDS OFF-SYSTEM

Mr. MORGAN. If it is on federally owned land we would be involved in some of that. If it is not federally owned then it would be other than Federal Highway Administration.

Senator BYRD. Can you state how many bridges were washed out? Some of the bridges, although they may not have been washed out, the waters created other channels maybe 300 yards away so the bridge is sitting there now and the channel is way over here.

So how many bridges and how many foot bridges also do you estimate have to be repaired?

Mr. MORGAN. Senator, I do not know and I would hesitate to give an estimate.

Senator BYRD. Pardon?

Mr. MORGAN. We have the survey but I do not have the information with me.

SURVEY OF BRIDGES

Senator BYRD. Please supply it.

[The information follows:]

Thirty-two bridges were damaged or destroyed. Twenty-seven were on the Federal-aid system, three were on federally owned roads, and two were on federally owned trails.

INFORMAL ESTIMATE

Senator BYRD. Do you have any idea at the moment?

Mr. MORGAN. No, sir.

Senator BYRD. Now you have done nothing in the national forest on foot bridges and trails, or would you do that?

Mr. MORGAN. It is very possible if it is under the jurisdiction of the Forest Service, then it would come out of the—it would be a Federal Lands Highway. If it was a Federal Lands Highway, we would handle it. When it gets down to trails, often the agency itself will handle the trails. That is where the split is.

Senator BYRD. Have you done any analysis on the estimated overall cost of replacing and repairing these bridges in West Virginia?

Mr. MORGAN. We have, Senator. I do not have the figures with me.

Mr. BARNHART. If you are talking about all those trees and forest lands, no, we do not have that, but the Federal aid portion certainly.

Senator BYRD. I am talking about bridges.

Mr. BARNHART. On our bridges, certainly, and we can provide that to you.

OVERALL FLOOD COSTS

Senator BYRD. Do you have any estimate of the overall cost?

Mr. BARNHART. No, sir; not with us. We will try to get that information.

Senator BYRD. All right.

[The information follows:]

The total damage to the Federal-aid highways and federally owned roads/trails exceeds $53.2 million. The damage to Federal-aid system bridges is approximately $51.6 million, federally owned roads is approximately $1.5 million, and federally owned trails is approximately $0.1 million.

MILEAGE DESTROYED IN FLOODS

Senator BYRD. Do you have any figures on the mileage, the road mileage that was destroyed and will have to be restored?

Mr. BARNHART. We will supply that for the record.

[The information follows:]

Generally, damage to roads is not recorded by miles but by damage sites. A damage site may consist of a spot repair or a repair of a section of a roadway ranging a couple of tiles in length. There are approximately 230 sites on the Federal-aid system and 45 sites on federally owned roads and trails.

LETTER ON FLOOD DAMAGE

Senator BYRD. Can you put this in writing to me also in a letter? I might not get to see the record for a while.

Mr. BARNHART. We will get it to you expeditiously.

AVERAGE COST PER MILE

Senator BYRD. What is the average cost per mile of building a highway, let's say, a primary road in West Virginia?

Mr. BARNHART. I am sorry, sir. It is awfully difficult to determine as to what is average. In your State it is quite costly with all of our bridges and so forth. I really do not know how we could arrive at a figure.

Senator BYRD. I am told it is about $14 million, but with respect to corridor G—part of the Appalachian Highway System which runs in the southern part of the State and is very mountainous—what is the cost per mile?

Mr. BARNHART. We will have to try to supply that, Senator. I have no idea.

Senator BYRD. I think it is about $20 million there, $20 million.

What is going to be the impact of Gramm-Rudman on your highway programs?

Mr. BARNHART. It is going to be a little lower than what we would like or what we could use, but again I hope that that is a 4-year timeframe period and then we can get back up to a level that we would believe is necessary.

EFFECT OF GRAMM-RUDMAN ON HIGHWAY PROGRAM

Senator BYRD. How much are you going to cut back? Can you give us some idea what you are going to have to do in light of Gramm-Rudman?

Mr. MORGAN. Senator, in 1986 we had to reduce the obligation ceiling by approximately $548 million, which is 4.3 percent. We had to reduce our apportionments by about $650 million, which is again 4.3 percent of the authorizations.

For 1987 through 1990 our highway legislation and our budget reflects what we call a deficit-neutral highway program, whereby the authorizations were equal to the income to the trust fund from the excise taxes, and that rounds out to about a $12.8 billion a year highway program now through 1990.

PROPOSED LEGISLATION AND EMERGENCY RELIEF

Senator BYRD. What will this do to your emergency road and bridge repair program?

Mr. MORGAN. We are recommending no cut in the emergency relief portion for 1987 through 1990.

Senator BYRD. So you intend to absorb this?

Mr. MORGAN. Yes; we have taken the cuts elsewhere.

Senator BYRD. Like what?

Mr. MORGAN. We took the major cut out of interstate completion and the interstate substitution programs for the 1987 through 1990 period.

Senator BYRD. What will this likely do insofar as West Virginia is concerned?

POTENTIAL EFFECT OF PROPOSAL ON WEST VIRGINIA

Mr. MORGAN. West Virginia is well on the way, except for I–64, Sam Black Church section, to completing the interstate system, so my guess is it would have very little impact on that except it might postpone it if the State elects within the limited funding to put their priorities elsewhere. I understand that entire section is proceeding very well, so if that is the case then it would have very little impact on West Virginia.

There is flexibility within our highway bill to use either the entire pot, if you want to call it that, combined interstate, interstate 4R, and primary into a single pot which is eligible at the State's discretion to use the entire pot on interstate completion or not to use it on interstate completion, so with the State's commitment to completion of their last section, it would appear to us without consulting with the State that that section would proceed as a top priority project.

Senator BYRD. And so will the emergency bridge and road repairs?

Mr. MORGAN. Yes, sir.

APPALACHIAN HIGHWAY PROGRAM

Senator BYRD. Now, let me shift just briefly to the Appalachian Regional Highway Program. ARC is scheduled to be phased out, is it not?

Mr. BARNHART. Yes.

Senator BYRD. When?

Mr. BARNHART. I do not know that there is any funding request in there for 1987. There is no funding request for 1987.

Senator BYRD. What impact will this phaseout have on States like West Virginia. It is very difficult terrain. Airline service has been cut greatly, but that is not your fault. But I am sorry I ever voted to deregulate the airlines, but that is another day and somebody else at your end.

What impact will phaseout of ARC have on the completion of the Appalachian highway system?

EFFECT OF APPALACHIAN PHASEOUT

Mr. BARNHART. Again, that will be up to where the State wants to target its funds, but I would assume that it would probably delay it. I assume it would not expedite it. It would probably delay it. That is just logic.

Senator BYRD. I did not need that kind of an answer. I assume that, too, but you are the expert.

Mr. BARNHART. Well, that is going to be a State call.

Senator BYRD. Well, State calls depend a lot on what the Federal Government does. You know that we all know that. Well, since you are not able to answer my questions very well this morning, would you please provide the responses in the record and also in correspondence to me?

Mr. BARNHART. Certainly.

Senator BYRD. If you can draw a little closer bead on what is going to happen to our road building programs in West Virginia, and especially with reference to repair and placement needs subsequent to the recent floods.

Let me have that in correspondence, too, if you will.

Mr. BARNHART. We will do that.

Senator BYRD. Thank you, Mr. Chairman.

Senator ANDREWS. Thank you, Senator.

Thank you, Mr. Administrator.

SUBMITTED QUESTIONS

We have a number of questions for the record from not only myself, but from Senator Hatfield and Senator D'Amato and other members of the subcommittee. We would appreciate it if you would get those back to us within as short a timeframe as possible. We appreciate your appearance here today.

Our next witness is Ms. Diane Steed, the National Highway Traffic Safety Administrator.

Senator BYRD. While she is coming to the witness table, Mr. Chairman, let me thank Mr. Barnhart and his administration for the help that they have given and for the cooperation that we have had in West Virginia from them with respect to the cleanup after the flood, the repair work, and the replacement of the bridges and roads, and we hope that can continue. If you need more money, let me hear from you, because Senator Stafford told me we could raise that cap above $55 million if there is a demonstrated need for it.

Mr. BARNHART. If we get into a bind, we will call.

Senator BYRD. I thank you.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

SENATOR ANDREWS: Other than deficit reduction, what considerations led to your proposing a 17 percent reduction from FY 1986 pre-Gramm-Rudman-Hollings highway program budget authority?

ANSWER: The underlying reason was the need to respond to the deficit situation. It was decided to adopt a deficit neutral concept, whereby authorizations for a year equal revenue accruing to the Trust Fund for that year. This avoids increasing the deficit.

SENATOR ANDREWS: AASHTO further states that the Federal share of that investment would be $21.2 billion to $23.5 billion at current match ratios. A minimum program of investment would require a Federal investment of $18.1 billion in FY 1987, rising to $19.1 billion in 1990. Do you agree with this analysis? If not, why not?

ANSWER: We do not agree with the assumptions supporting AASHTO's proposed level of Federal investment. Historically, the Federal share of total highway capital spending has been on the order of 50 percent, varying by system from a high of 90 percent on the Interstate to much lower levels on the secondary and urban systems and off-system bridges. The remaining investment has been the State match and State only funds (including local governments).

Our proposal would continue the historic Federal role for the Interstate, Primary and Primary bridge programs by relating authorizations to the historic Federal share rather than to statutory match. This method would maintain the overall jurisdictional responsibility for highway capital spending. The AASHTO method would substantially increase Federal exposure for all highways.

SENATOR ANDREWS: Doesn't deferral of meeting highway needs just increase the ultimate cost to the highway user?

ANSWER: If substantial deferrals were the result of proposed program or budgetary revisions, the ultimate cost to the highway user could be higher because of increased user operating costs and future costs of highway reconstruction. Our proposal will not result in substantial deferrals, however, and the increased flexibility offered will ensure that States can meet their most pressing needs in a timely fashion.

HIGHWAY TRUST FUND BALANCE

SENATOR ANDREWS: The Administration's Surface Transportation Reauthorizing legislation proposes to limit funding for highway construction, highway safety and transit programs supported by the Highway Trust Fund (HTF) to the average amounts collected annually from highway user fees. Would the Trust Fund (highway portion) continue to accrue interest on its present balance of more than $9 billion?

ANSWER: Yes, over $900 million a year in interest is expected to accrue to the Highway Account of the Highway Trust Fund.

The Administration has proposed authorization levels that would be deficit neutral. The level of authorizations for FY 1987-1990 would approximately equal the Highway Account tax receipts in those years.

SENATOR ANDREWS: What would the projected Trust Fund (Highway portion) balance be at the close of Fiscal Year 1990 under the terms of the Administration proposal?

ANSWER: The balance at the end of Fiscal Year 1990 in the Highway Account is projected to be $12.805 billion.

SENATOR ANDREWS: Why should users be asked to continue to pay into a "dedicated" Trust Fund when your legislation proposes that the current balance and interest over the next four years be held in the Treasury?

ANSWER: The amount of funds proposed to be authorized and obligated in a year would be approximately equal to the user fee revenue for the year. In other words, the income generated by highway users remains dedicated to transportation improvements. The uncommitted balance and interest earned will be retained in the Highway Trust Fund and will be used for highways when the deficit situation permits.

SENATOR ANDREWS: You stated before the House Surface Transportation Subcommittee a few weeks ago that interest would continue to go into the Trust Fund over the next four years and may be available after that for highway programs. What does this statement mean? Could these funds be used for non-highway purposes?

ANSWER: The interest income would be available in the future when the deficit situation improves to the point that it is no longer necessary to operate under the deficit-neutral policy. These funds could not be used for non-highway purposes.

SENATOR ANDREWS: Provide for the record an analysis of the Trust Fund-Highway Account operations over the period FY 1987-FY 1990 under the terms of the proposal.

ANSWER: The following table provides that information:

HIGHWAY TRUST FUND ANALYSIS
BASED ON ADMINISTRATION PROPOSAL

	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
Highway Trust Fund Balance:						
Balance Start of Year	11,821.5	12,886.0	12,660.1	13,268.2	14,462.3	15,901.5
Tax Receipts	13,014.9	13,022.0	13,814.0	14,072.0	14,329.0	14,619.0
Interest	1,312.7	1,401.3	1,265.8	1,260.5	1,265.4	1,252.2
Outlays (-)	(13,263.1)	(14,649.2)	(14,471.7)	(14,138.4)	(14,155.3)	(14,775.5)
Balance End of Year	12,886.0	12,660.1	13,268.2	14,462.3	15,901.5	16,997.2
Investment Rate	0.10875	0.10000	0.09500	0.08750	0.07875	0.06875
Mass Transit Account:						
Balance Start of Year	1,611.0	2,524.0	3,126.4	3,597.8	3,806.0	4,056.5
Tax Receipts	1,213.7	1,078.0	1,216.0	1,230.0	1,242.0	1,256.0
Interest	206.2	274.5	312.6	341.8	333.0	319.4
Outlays (-)	(507.0)	(750.1)	(1,057.2)	(1,363.6)	(1,324.6)	(1,439.5)
Balance End of Year	2,524.0	3,126.4	3,597.8	3,806.0	4,056.5	4,192.4
Highway Account:						
Balance Start of Year	10,210.5	10,362.0	9,533.7	9,670.4	10,656.2	11,845.0
Tax Receipts	11,801.2	11,944.0	12,598.0	12,842.0	13,087.0	13,363.0
Interest	1,106.5	1,126.9	953.2	918.7	932.4	932.8
Outlays (-)	(12,756.1)	(13,899.1)	(13,414.5)	(12,774.8)	(12,830.7)	(13,336.0)
Balance End of Year	10,362.0	9,533.7	9,670.4	10,656.2	11,845.0	12,804.8

DEFICIT NEUTRAL

SENATOR ANDREWS: Your budget justification states that annual budget authority in your proposed legislation is equated to the average revenues projected to be paid into the Highway Trust Fund in the name of "Deficit Neutrality." "Deficit Neutral" is defined as a position in which Highway Trust Fund programs do not increase or decrease the Federal deficit. Doesn't your proposed legislation go beyond deficit neutrality? That is, won't the Trust Fund balance increase substantially over the course of the four year program envisioned in your legislative proposal, thus providing a progressively larger credit to apply against the overall Federal deficit?

ANSWER: The balance of the Highway Trust Fund will grow larger over the course of the four year program under our proposal. However, trust fund balances are not considered in the calculation of the annual federal deficit. The deficit is the relationship between expenditures and income on an annual basis. Therefore, to the extent that expenditures (obligations in the case of the highway program) exceed revenue during a given year, this would increase the deficit.

BUDGET COMPROMISES

SENATOR ANDREWS: The President's budget proposals were structured to achieve Gramm-Rudman-Hollings deficit targets, through increased defense spending and scaled-back domestic spending. It seems reasonable to assume that any Congressional/White House Budget Agreement will involve some compromise. If we were to assume that compromise package allows for a larger highway program. In what categories would you recommend that additional resources be applied?

ANSWER: This would depend a great deal on how Congress reacts to our proposal. Our thinking at this time is that we would increase the combined Interstate/Primary authorization. Because of the increased flexibility provisions of that program, each State could use the funds in accordance with its own priorities for projects on either the Interstate or primary systems, or both.

SENATOR ANDREWS: How does the Highway Trust Fund differ materially from other Federal Trust Funds that are exempt or partially exempt from the Gramm-Rudman-Hollings reductions?

ANSWER: In the strict financial sense, the Highway Trust Fund does not differ from the exempt funds to which you refer in that all are established by Congress for specified purposes, such as the payment of Social Security Benefits or Highway Trust Fund expenditures, and all are financed by user receipts. Certainly, the argument could be made that since payments from the Social Security and Railroad Retirement Trust Funds have been exempted from the sequestration provision of the Gramm-Rudman-Hollings Act that other important trust funds such as the Highway Trust Fund should likewise be exempt. Politically, however the nature of the programs differ greatly. Millions of people depend for a substantial portion of their income on Social Security and Railroad Retirement. For this reason, Congress proposed and the President agreed that these two trust funds should be exempted from sequestration in Public Law 99-177, the Gramm-Rudman-Hollings Act because the reduction in benefits would impose an unacceptable hardship on many citizens in their daily lives.

PROSPECTS FOR 1986 LEGISLATION

SENATOR ANDREWS: As you know, Federal-aid Highway program authorizations except for the Interstate Construction program and Emergency Relief end in 1986. The Administration has submitted a reauthorization bill that proposes major changes both in program structure and funding levels. The House and Senate will be introducing highway legislation that assuredly will contain differing provisions in many important program areas. Tough compromises will be necessary both in the highway areas and other Federal government programs to meet the deficit reduction target prescribed in the Gramm-Rudman-Hollings balanced budget law. What will happen in the highway program if authorizing legislation is not passed by the beginning of FY 1987?

ANSWER: The program could continue, but it would be unbalanced from both a national and State perspective. We project that the overall unobligated balance would be $8,639,624,000. However, this would not be evenly distributed among the various program categories nor would all the States have a proportionate share of this balance.

The only new authorizations that would be available for distribution would be Interstate Construction ($4.0 billion), assuming Congress approves the ICE, and Emergency Relief ($100 million). However, more than half the States would receive only a one-half percent minimum share of the Interstate funds and the Emergency Relief funds are provided only to those States suffering from some disaster.

The total amount available on October 1, 1986, would be over $12.7 billion, but it is quite possible that the share many individual States would have of this total would allow them to operate for only two or three months before their Federal funds run out.

SENATOR ANDREWS: How much unobligated authority from previous apportionments would be available to the States for use in FY 1987?

ANSWER: Unobligated authority available for obligation in FY 1987 is estimated at $8,639,624,000.

SENATOR ANDREWS: Could a viable highway program be maintained using already authorized Interstate funding for 1987 and the carryover balance of $8.6 billion? If so, how and why? If not? Why not?

ANSWER: No, it would not be viable highway program. It is true that an overall program level of $12.6 billion would be possible and that this is close to the level we have estimated in our legislative proposal and budget. However, the $12.6 billion would not be available to all the States on an equitable basis. Some States would have a larger share of the unobligated balances and/or of the Interstate Construction apportionment and, thus, would be able to carry a fairly "normal" program. Other States would have little or none of the balances and may get only the one-half percent minimum Interstate Construction apportionment. These States could operate for only a short while. This imbalance would not make for a practical program from either national or individual State perspectives.

SENATOR ANDREWS: In what program categories do you estimate that this authority would be available?

ANSWER: All major program categories will have carryover balances at the close of FY 1986.

SENATOR ANDREWS: Please provide for the record a table displaying estimated unobligated authority at the beginning of FY 1987 by program category.

ANSWER:

Estimated Unobligated Balances by Program Categories
(dollars in thousands)

Subject to Limitation	9/30/86 Unobligated Balance
Interstate	2,319,059
Interstate 4R	1,677,202
Primary	961,773
Interstate/Primary	0
Interstate Substitution	202,163
Secondary	434,139
Urban	787,703
Bridge Replacement	1,066,822
Safety Construction	349,376
Motor Carrier Safety Grant	0
Highway Block Grant	0
Miscellaneous	150,129
Administration	190,428
Subtotal Limitation	8,138,794
Not Subject to Limitation	
Minimum Apportionment	239,551
Emergency Relief	152,596
Accelerated Bridges	8,932
Woodrow Wilson Bridge	25,634
Union Station	5,055
Gap Closing Demo (131b)	64,926
Usable Segments Demo (131j)	2,142
Zilwaukee Bridge	1,994
Alaska Highway	0
Subtotal Exempt Programs	500,830
Total	8,639,624

OBLIGATION CEILING

SENATOR ANDREWS: The Administration's Fiscal Year 1987 submission assumes a $12.4 billion obligation ceiling, and assumes the same level for the out-years. How was this level derived?

ANSWER: The $12.420 billion ceiling corresponds to the authorization levels for the non-exempt Federal-aid programs for each of the fiscal years 1987-1990. This is consistent with the deficit neutral policy under which the level of expenditures (obligations) will be approximately equal to the highway user fees collected.

SENATOR ANDREWS: What is FHWA's estimate for obligations, if there were no ceiling? How was this estimate derived?

ANSWER: FHWA has not formally canvassed the States to determine the level of obligations if they were unconstrained. However, judging from the past several years when States reached obligation ceilings of up to $13.25 billion , we believe they would well exceed the $12.4 billion ceiling.

SENATOR ANDREWS: At the end of the Fiscal Year 1986, there is a projected unobligated contract authority balance of $8.6 billion at the estimated obligation level of $12.4 billion. Will this balance ever be reduced?

ANSWER: Given the assumptions on obligation levels in our FY 1987 budget, together with authorization levels in our legislative proposal, the unobligated balance will not be reduced during the fiscal years 1987-1990.

SENATOR ANDREWS: Does the Department believe there will be lapses of contract authority under its projected obligation ceiling? Will lapses increase under this obligation ceiling? If yes, please explain why? If not, why not?

ANSWER: Under current law each State is guaranteed sufficient authority to prevent lapse of sums authorized to be apportioned for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under 23 U.S.C. 104(b)(5)(A). The President's fiscal year 1987 budget proposes continuation of the same guarantee that each State will be provided sufficient obligation authority to prevent lapse of funds. However, the utilization of the States share of the limitation is at the discretion of the State and the State could choose to lapse funds.

SENATOR ANDREWS: Please provide for the record a listing of estimated unobligated balances, by State, by program, for the end of fiscal year 1986 and the same for fiscal year 1987, assuming the Administration's program for FY 1987.

ANSWER: The table below shows our estimates of the unobligated balances that would remain at the end of fiscal years 1986 and 1987 for the various major programs in the Federal-aid Highway Account. We are unable to provide these estimates for each State.

Estimated Unobligated Balances At the End of Fiscal Year

(dollars in millions)

Subject to Limitation	9/30/86	9/30/87
Interstate	2,319	0
Interstate 4R	1,677	0
Primary	962	0
Interstate/Primary	0	4,958
Interstate Substitution	202	202
Secondary	434	434
Urban	788	788
Bridge Replacement	1,067	1,067
Safety Construction	349	349
Motor Carrier Safety Grant	0	0
Highway Block Grant	0	0
Miscellaneous	150	229
Administration	190	221
Subtotal Limitation	8,139	8,248

Not Subject to Limitation		
Minimum Apportionment	239	239
Emergency Relief	153	153
Accelerated Bridges	9	--*
Woodrow Wilson Bridge	26	--*
Union Station	5	--*
Gap Closing Demo (131b)	65	--*
Usable Segments Demo (131j)	2	--*
Zilwaukee Bridge	2	--*
Subtotal Exempt Programs	501	392
Total	8,640	8,640

*These programs are proposed to be subject to the limitation in FY 1987.

OBLIGATION CEILING

SENATOR ANDREWS: If Congress were to provide an obligation ceiling above that requested by the Administration, how much of that increase would the Administration estimate would result in outlays in FY 1987? That is, what is the spendout rate associated with obligations?

ANSWER: Assuming a straight-line obligation rate, i.e., 1/12 of the annual rate per month, it is estimated that about 17 cents of each dollar obligated will be outlayed during the first year.

UNOBLIGATED BALANCE OF URBAN AND SECONDARY PROGRAM APPORTIONMENTS

SENATOR ANDREWS: As part of the program restructuring associated with the creation of the Block Grant, your legislation proposes that unobligated balances of urban and secondary system funds may be used for highway construction on any public road using procedures applicable to the primary system. In the table on page 136 of your budget justification depicting estimated FY 1987 obligations, where do obligations resulting from these carryover secondary and urban system balances appear?

ANSWER: The obligation amounts as shown in the budget are merely estimates and in no way do these estimates constitute which category of funds can in fact be obligated by the States. However, the amounts shown on page 136 of our budget justification assume that the States will not obligate any of the carryover balances of secondary and urban system funds and therefore do not appear.

SENATOR ANDREWS: How much of this authority will be obligated in FY 1987?

ANSWER: The amount obligated against these unobligated balances is at the States' discretion and we are therefore unable to determine the amount of these obligations.

SENATOR ANDREWS: If such obligations have not been accounted for in the table (page 136), in what programs would you estimate reduced levels to compensate for these obligations?

ANSWER: Obligations from unobligated balances in those programs proposed to be merged into the Highway Block Grant activity have not been accounted for in the table on page 136. The obligations by program shown in the budget are merely estimates and to the extent the States choose to utilize unobligated balances for these programs, obligations in the other programs as shown in the budget will be necessarily reduced.

EXEMPTION REPEALS

SENATOR ANDREWS: Your budget justification states that repeal of the current Federal exemption on gasohol, methanol, and ethanol would increase revenue to the Highway Trust Fund by $506 million in FY 1987. How much revenue is this exemption repeal estimated to generate in FY 1988, 1989, and 1990?

ANSWER: Elimination of the gasohol, methanol, and ethanol exemptions is estimated to generate the following increase in revenue to the Highway Trust Fund:

Fiscal Year 1988	$553 million
Fiscal Year 1989	$589 million
Fiscal Year 1990	$600 million

SENATOR ANDREWS: Have these estimates been adjusted to reflect the recent decline in gasoline prices? How will a continuing decline in the price of gasoline affect gasohol use?

ANSWER: The estimates are based on the January budget assumptions regarding the economy and the price of oil. The average refiner's acquisition cost of crude oil per barrel used in making the revenue projections for the Fiscal Year (FY) 1987 budget were:

1987	1988	1989	1990
$23.98	$23.55	$24.17	$24.85

The estimates will not be officially revised until the mid-session review in August.

Should the average refiner's acquisition cost drop substantially for a sustained period of time, it is likely that gasohol production would drop to levels recorded in the early 1980's. We would anticipate the current 7-percent market share falling to less than 1 percent.

SENATOR ANDREWS: Your legislation also proposes to eliminate current exemptions estimated to amount to $107 million per year from Federal gasoline, diesel, and tire taxes for public and private revenue bus operations. Is that correct?

ANSWER: That is correct. Estimates of increased Highway Trust Fund revenue range from $117 million in FY 87 to $130 million in FY 1990. The estimated share of this to the Highway Account for FY 87 is approximately $107 million.

SENATOR ANDREWS: What types of bus operations would this exemption repeal encompass?

ANSWER: The repeal of the bus exemption would apply to all public and private buses operated for compensation and available to the general public, including local public transit buses. School buses would continue to be exempt.

SENATOR ANDREWS: Is this a new initiative, or were these exemption repeals considered as part of the user charge modifications in the Surface Transportation Assistance Act (STAA) of 1982?

ANSWER: Bus exemption modifications were proposed by the Department for the STAA of 1982 but not in the same form as now submitted. Intercity and charter bus operations were proposed to be partially taxed, but the STAA of 1982 as passed fully exempted all buses. The Deficit Reduction Act of 1984 provided that half of the diesel differential would be paid by intercity buses.

SENATOR ANDREWS: Given that the projected decreases in the gasoline pump prices are likely to result in increased travel and wear and tear on the highways, would you oppose a gasoline tax increase to be used for highway purposes?

ANSWER: The President consistently has made clear that he is against tax increases. While the idea may have particular appeal at the moment because of declining oil prices, an increase in fuel taxes should be carefully analyzed as to the short range and long term effects on the economy and transportation, especially if it were going to be used as a general revenue device.

SENATOR ANDREWS: The Administration has consistently opposed any tax increases as a means to generate additional revenue and decrease the deficit. Why do you not consider your proposed exemption repeals to be tax increases?

ANSWER: Our proposal does not change any tax rates. We are merely removing inequities by proposing repeal of exemptions for buses and vehicles using gasohol. These vehicles contribute to the deterioration of the highways and should contribute their share of user fees to pay for rehabilitation of these highways.

INTERSTATE/PRIMARY FUNDING REDUCTION

SENATOR ANDREWS: The Administration's surface transportation reauthorizing legislation proposes to eliminate categorical funding for Interstate construction, Interstate 4R, and the primary program and instead fund these programs' activities through a consolidated Interstate/Primary Program. Combined funding for the Interstate/Primary program under your legislative proposal is $7.843 billion per year, compared to $9.6 billion in authorizations for Interstate construction, Interstate 4R, and the primary program in FY 1986. This represents a funding reduction of more than 15 percent. Funding from the highway program for the block grant is $2.2 billion per year, an amount equal to FY 1986 authorizations for the programs - secondary, urban, off-system bridges - it is intended to replace. Why should the programs of greatest Federal interest suffer a 15 percent reduction while those of less Federal interest are maintained at current authorization levels?

ANSWER: All of the reduction in the Interstate-primary program is actually being made in the Interstate construction portion. The portion distributed under the Interstate Cost Estimate is $1.635 compared to $3.8 billion for Interstate construction in fiscal year 1986 after sequestering. The portion distributed under the Interstate-4R and primary formulas is $6.2 billion compared to a combined total of $5.4 billion for Interstate-4R and primary in fiscal year 1986 after sequestering.

The large reduction in Interstate construction and a similar reduction in the Interstate substitute program were made in order to maintain a high level of funding for those programs (Interstate-4R, primary, and bridge) that are important to preserving our existing highway facilities. The Interstate System is over 97 percent complete. The remaining cost includes expensive segments in urban areas that will serve primarily local transportation needs. Our proposal will permit States to decide whether to proceed with those segments or use available funds for other high priority construction and 4R projects.

Although funding for the Interstate and primary systems was significantly increased under the 1982 STAA, funding for the urban and secondary systems was continued at essentially the pre-STAA levels. For this reason, it was considered desirable to continue current level for these programs under the block grant. Also, the block grant funds can be used for improvements on the Interstate and primary systems if the State and/or local officials decide that is where they want to use them.

INTERSTATE SYSTEM COMPLETION

SENATOR ANDREWS: Why are you abandoning so close to the projected completion date the longstanding Federal commitment to complete the Interstate System?

ANSWER: The Interstate System is over 97 percent complete. Many of the critical gaps necessary to provide an interconnected system are already under construction. We are confident that, under this proposal, States will continue to work on those critical gaps. In recognition of the need to continue Federal support for Interstate construction, a portion of the funds under the combined program will be apportioned to the States based on the remaining cost to complete the System.

States will be free to use funds under the consolidated program for construction or repair projects on the Interstate and primary systems. Current law discourages States from using non-Interstate funds for approved Interstate construction work. Our proposal would change that and, therefore, could accelerate completion of critical gaps. States will have an incentive to use funds for Interstate construction, because the Federal share for such projects will continue to be 90 percent while the Federal share for projects on the primary system will continue to be 75 percent.

Much of the remaining cost to complete the System is for expensive segments in urban areas that will serve primarily local transportation needs. Our proposal will permit States to decide whether to proceed with those segments or use available funds for other high priority construction and repair projects.

SENATOR ANDREWS: Isn't it more reasonable to make program level decreases in the name of deficit reduction from programs of lesser Federal interest?

ANSWER: We believe we have proposed reductions in the appropriate programs. As we have stated earlier, the large reduction in Interstate construction and a similar reduction in the Interstate substitute program were made in order to maintain a high level of funding for those programs (Interstate-4R, primary, and bridge) that are important to preserving our existing highway facilities. The Interstate system is over 97 percent complete. The remaining cost includes expensive segments in urban areas that will serve primarily local transportation needs. Our proposals will permit States to decide whether to proceed with those segments or use available funds for other high priority construction and Interstate-4R projects.

Although funding for the Interstate and primary systems was significantly increased under the 1982 STAA, funding for the urban and secondary systems was continued at essentially the pre-STAA levels. For this reason, it was considered desirable to continue current levels for these programs under the block grant. Also, the block grant funds can be used for improvements on the Interstate and primary systems if the State and/or local officials decide that is where they want to use them.

SENATOR ANDREWS: When do you project that the Interstate System will be complete under your legislative proposal?

ANSWER: Under our proposal there is no specific commitment to completion of the Interstate System. We are proposing to combine the current Interstate construction, Interstate repair (4R), and primary programs into a consolidated Interstate/Primary program. States will be free to use funds under the consolidated program for construction or 4R projects on the Interstate and primary systems. We cannot project a completion date for the currently defined system since we cannot be sure how much the States will chose to use on Interstate completion. Many of the critical gaps necessary to provide an interconnected system are already under construction. We are confident that, under this proposal, States will continue work on those critical gaps.

SENATOR ANDREWS: How many essential gaps currently remain in the Interstate System? Provide for the record a list of these essential gaps and their remaining cost.

ANSWER: We estimate that there are some 90 gaps remaining to be built on the Interstate System. We have not established a formal listing of essential gaps. We are, however, providing a listing of unbuilt segments on through routes which could be considered desirable for nationwide Interstate System connectivity and their remaining costs, as of the 1985 Interstate Cost Estimate.

UNBUILT SEGMENTS ON THROUGH ROUTES
AS OF THE 1985 INTERSTATE COST ESTIMATE
($1,000 STATE AND FEDERAL, 1983 DOLLARS)

STATE	ROUTE	COST (1,000)
Arizona	I-10	105,800
California	I-15	168,200
Colorado	I-70	268,300
Florida	I-75	80,700
Idaho	I-90	108,300
Louisiana	I-49	1,134,200
Michigan	I-69	178,100
Montana	I-15	39,700
New Hampshire	I-93	53,900
New York	I-88	50,600
North Carolina	I-40	135,100
Oregon	I-82	61,200
Pennsylvania	I-78	400,800
South Carolina	I-77	3,500
Texas	I-20	76,200
Utah	I-15	105,100
Utah	I-70	124,000
Utah	I-80	73,800
Virginia	I-95	259,300
Washington	I-82	41,600
West Virginia	I-64	218,100
	Totals	3,686,500

SENATOR ANDREWS: What assurances are there that high national priority Interstate segments will be built under your combined program?

ANSWER: There are no absolute assurances. However, starting with combined funds authorized for fiscal year 1987, States will have complete flexibility to finance projects in any of the three categories or convert ACI/bond projects. The Federal share will be determined by the system on which the project is located (i.e., 90 percent for Interstate System projects). Many of the uncompleted high national priority Interstate segments are fully or partially under construction with substantial funds already spent or committed. We do not believe that States will abandon these projects. Some States may actually use the flexibility offered by the combined funds to speed up completion of certain segments.

SENATOR ANDREWS: Does this proposal jeopardize the completion of Interstate System routes that are essential to National Defense or Interstate Commerce?

ANSWER: No, we do not believe that the completion of routes needed for Defense and Interstate Commerce will be jeopardized. Most gap sections on the nation's through routes are well underway and we believe they will be continued to completion under our proposed combined program.

SENATOR ANDREWS: Isn't this approach unfair to States with large remaining Interstate completion costs compared to those States that have completed their Interstate system or that have withdrawn routes and will continue to receive separate Interstate transfer funding?

ANSWER: We do not believe the administration's approach is unfair to State's with considerable remaining Interstate completion costs. Each of these States will receive a proportional share of $1.6 billion provided for the Interstate portion of the combined highway program. The proportional share is to be based on their remaining need. States having completed their Interstate System will not receive a share of these funds. States that have withdrawn routes will continue to receive substitute funds but also at a reduced rate.

COMBINED INTERSTATE/PRIMARY PROGRAM APPORTIONMENT FACTORS

SENATOR ANDREWS: Please explain how the proposed Interstate/Primary Program would work.

ANSWER: The following points summarize the key features of the combined Interstate/Primary program:

- o Authorization - $7.843 billion per year.
- o Distribution of funds
  - Interstate construction ($1.635 billion) based on 1985 ICE adjusted through 10/01/86 (for withdrawals, apportionments, allocations, transfers and lapses but not for inflation).
  - 55 percent of remainder based on current I-4R formula.
  - 45 percent of remainder based on current primary formula.

- Federal Share
  - 90 percent on Interstate projects.
  - 75 percent on primary projects.

- Availability of funds - four years

- Eligibility
  - All funds may be used for either new construction or 4R improvements on the Interstate or primary systems.
  - State determines where to use funds and how much.
- Other features
  - Unobligated balances of Interstate construction funds are only available for Interstate construction projects in the State to which apportioned or allocated.
  - Any discretionary funds remaining would be administered under current procedures and can be used only on Interstate construction projects.
  - All previously authorized Interstate construction funds lapse October 1, 1990.
  - No new discretionary funds.
  - Unobligated balances of I-4R and primary funds may be used for either Interstate or primary projects.

SENATOR ANDREWS: What factors and relative weightings will be used for apportioning these funds to the States?

ANSWER: A revised estimate of the cost-to-complete the Interstate System would be used to apportion $1,635,000,000 of the proposed Interstate/Primary funds. Of the remainder, 55 percent would be apportioned based on 55 percent Interstate System lane miles and on 45 percent Interstate System vehicle-miles of travel. The remaining 45 percent would be apportioned under the revised Federal-aid primary formula contained in section 108 of the Surface Transportation Assistance Act of 1982.

SENATOR ANDREWS: Will the Interstate construction component of this formula be adjusted annually based on obligations on Interstate construction projects?

ANSWER: No, the Interstate construction component will be apportioned on the basis of the 1985 Interstate Cost Estimate adjusted only once for changes for credits, lapses, apportionments, transfers, discretionary allocations and withdrawals through September 30, 1986.

SENATOR ANDREWS: Provide for the record a State-by-State comparison including percentage reductions by State of apportionments under your proposed consolidated Interstate/Primary Program to combined FY 1986 apportionments for Interstate construction, Interstate 4R, and the Primary Program.

ANSWER: The attached table shows the percent change by State of the combined FY 1986 Interstate, I-4R, and Primary Programs after Gramm-Rudman-Hollings reductions with the FY 1987 Administration proposal for a combined Interstate/Primary Program.

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TABLE Q56

ESTIMATED PERCENT OF ACTUAL FY 1986 APPORTIONMENT OF INTERSTATE, 1-4R, AND PRIMARY UNDER CURRENT LAW AND FY 1987 ADMINISTRATION PROPOSAL FOR COMBINED INTERSTATE/PRIMARY PROGRAM

(IN PERCENTS)

STATE	FY 1986 APPORTIONMENT	FY 1987 APPORTIONMENT	PERCENT CHANGE
ALABAMA	2.10	2.04	-3.24
ALASKA	1.35	1.50	10.19
ARIZONA	1.71	1.76	2.49
ARKANSAS	0.89	0.38	-1.28
CALIFORNIA	8.76	8.90	1.57
COLORADO	1.75	1.78	2.08
CONNECTICUT	1.58	1.47	-7.51
DELAWARE	0.50	0.39	-28.01
DIST. OF COL.	0.53	0.57	6.50
FLORIDA	5.18	4.66	-11.18
GEORGIA	3.00	3.11	3.62
HAWAII	1.29	1.20	-7.16
IDAHO	0.85	0.88	3.25
ILLINOIS	2.45	3.22	24.05
INDIANA	1.57	1.96	19.74
IOWA	1.08	1.12	3.65
KANSAS	1.08	1.21	10.82
KENTUCKY	1.99	1.97	-1.24
LOUISIANA	3.14	2.69	-16.72
MAINE	0.53	0.45	-18.19
MARYLAND	1.89	1.96	3.51
MASSACHUSETTS	2.51	2.45	-2.48
MICHIGAN	2.85	3.11	8.50
MINNESOTA	2.17	2.12	-2.43
MISSISSIPPI	1.00	1.06	5.71
MISSOURI	1.74	1.97	11.66
MONTANA	1.04	1.11	5.78
NEBRASKA	0.79	0.76	-4.64
NEVADA	0.71	0.68	-5.16
NEW HAMPSHIRE	0.50	0.40	-25.46
NEW JERSEY	2.44	2.49	2.12
NEW MEXICO	1.06	1.08	2.15
NEW YORK	6.24	3.54	-76.10
NORTH CAROLINA	1.90	2.09	8.67
NORTH DAKOTA	0.68	0.62	-11.01
OHIO	2.88	3.66	21.23
OKLAHOMA	1.10	1.40	21.39
OREGON	1.15	1.28	9.73
PENNSYLVANIA	4.05	4.38	7.42
RHODE ISLAND	0.50	0.39	-28.01
SOUTH CAROLINA	1.40	1.47	4.20
SOUTH DAKOTA	0.77	0.72	-6.79
TENNESSEE	1.59	1.84	13.54
TEXAS	6.28	6.66	5.69
UTAH	1.48	1.41	-5.03
VERMONT	0.50	0.39	-28.91
VIRGINIA	3.16	2.98	-6.05
WASHINGTON	2.98	2.66	-11.73
WEST VIRGINIA	0.73	0.81	9.91
WISCONSIN	1.21	1.29	6.59
WYOMING	0.85	0.82	-4.01
PUERTO RICO	0.52	0.68	24.60
TOTAL	100.00	100.00	

SENATOR ANDREWS: The Surface Transportation Assistance Act (STAA) of 1982 changed the long-standing formula for apportioning primary system funds to a complicated "either/or" formula that primarily benefits urbanized States. Was consideration given to modifying the primary system component of the combined formula? What changes were contemplated? Are these changes reflected in the new formula? If so, how so? If not, why not?

ANSWER: The formula was worked out in 1982 as a compromise between States with large populations and those with large land areas. We will be evaluating alternative formulas over the next few years as we develop the post-Interstate completion program for the 1990's and beyond.

BLOCK GRANT

SENATOR ANDREWS: The Administration's reauthorizing legislation proposes to "enhance local decision-making and increase State flexibility" by creating a $3.3 billion per year block grant in place of certain highway program (secondary, urban, and off-system bridges) and transit programs. Explain briefly how the block grant would operate.

ANSWER: The following summarizies how the block grant will function.

- Authorization
  - $2.2 billion from Highway Account of Highway Trust Fund.
  - $1.22 billion from Mass Transit Account of Highway Trust Fund.
- Set-asides
  - from $2.2 billion:
  - one-fourth percent for SHRP
  - from $1.22 billion:

	1987	1988-1990
Administration	$26.8 M	$22.0 M
Planning	30.5 M	30.5M
Research	---	up to 19.5M
Elderly and Handicapped	up to 35.0 M	up to 30.5M

- Distribution of Remainder
  - 25 percent apportioned on October 1.
  - 75 percent apportioned on January 1.
  - Purpose: to allow for any Gramm-Rudman cuts that would be identified on October 15.
  - Funds are considered fully obligated when apportioned.

- Apportionment Formulas
  - Highway Account

    35 percent on basis of present urban system formula (one-half percent minimum).

    30 percent on basis of present secondary system formula (one-half percent minimum exempt D.C.)

    35 percent on basis of nonprimary bridge needs (one-fourth percent minimum; 10 percent maximum).
  - Mass Transit Account

    88.43 percent on basis of formula in Section 9A(b) of 1964 Urban Mass Transportation Act.

    8.64 percent on basis of formula in Section 9A(c).

    2.93 percent on basis of formula in Section 18(a).
- Recipient of Funds
  - States receive all funds for use anywhere in State, except that States must make available to urbanized areas of 200,000 or more:
    - From Highway Account approximately same amounts they would have received under current urban program.
    - From Mass Transit Account--an amount based on the relative share they would have received from the transit formula program.
    - Currently UMTA funds for areas of 200,000 or more go directly to the recipients.
- Eligible Activities and Maximum Federal Matching Share

- highway construction projects	75 percent
- mass transit capital projects	75 percent
- transportation planning and research	75 percent
- transit operating assistance	50 percent

  - all funds can be used for either highway projects (on any public road) or mass transit capital projects. In rural areas and urban areas under 200,000, the funds may also be used for transit operating assistance (not to exceed FY 1985 levels).
- Payment Method
  - Cash payments as needed to pay bills, but not to exceed:

    15 percent of apportioned amount in year of apportionment.

40 percent of apportioned amount in next year after apportionment.

20 percent of apportioned amount in second year after apportionment.

25 percent of apportioned amount in third year after apportionment.

- Payments are not project specific; based on program-wide needs.

o Requirements

- Federal requirements that are not eliminated would be satisfied through annual State assurances rather than Federal review and approval actions on individual projects.

- For funds made available to areas of 200,000 or more, project selection would be by local officials.

- States select other projects with appropriate local consultation.

- State concurrence in projects funded with highway account funds made available to urbanized areas of 200,000 or more would not be required. (Currently State concurrence in urban system projects selected by local officials is required).

SENATOR ANDREWS: What assurances are there that rural highway needs, presently addressed through the secondary system program, would be met under the block grant proposal? Why is there not a mandatory pass-through, similar to that for large urbanized areas, for rural areas?

ANSWER: We believe giving the States and local governments greater flexibility in the use of the block grant funds, together with reducing Federal requirements and Federal involvement, is a much better approach than continuing the current categorical programs, or having a mandatory rural pass-through, which is not provided in current law. Except for maintaining the current earmarked funding for urbanized areas of 200,000 or more, the block grant is structured to give the States maximum flexibility in the use of the funds so they can be used for the highest priority projects (highway or transit) anywhere in the State. While this may be viewed by rural areas as pitting them against the rest of State, the urban areas under 200,000 may also see themselves as pitted against the rest of the State. We believe this competition will help the State select the project with the highest priority.

Most States already have established procedures for suballocating funds within the State. The States are free to continue these procedures if they wish. The States will not be making program decisions in isolation; current requirements for consultation with local officials and the public are continued.

SENATOR ANDREWS: How does North Dakota make out under your proposed ground transportation block grant? That is, what does North Dakota receive now under the programs to be consolidated and what would it receive under the Administration's proposal?

ANSWER: Since there is not a separate apportionment for non-primary system bridges under the current bridge program, North Dakota's FY 1986 combined apportionments (after sequestration) for the bridge program, the urban system program and the secondary system program are compared to estimated FY 1987 combined apportionments for the bridge program and the

Highway Account portion of the block grant program under our proposal. In FY 1986, North Dakota was apportioned a total of $20.229 million for these programs after sequestration. For FY 1987, we estimate that North Dakota would receive a total of $20.006 million for the bridge program and the Highway Account portion of the block grant proposal.

SENATOR ANDREWS: If the intent of the Block Grant is to provide greater flexibility to State and local areas and, given the fact that areas under 200,000 population can use some of the funds for transit operating assistance, why should the States not be permitted to use a portion of these funds for highway maintenance purposes?

ANSWER: We do not support allowing the block grant to be used for highway maintenance. Although highway maintenance has never been an eligible activity under the highway program, transit operating assistance is currently an eligible activity under the transit program. While the Administration is strongly in favor of eliminating Federal funds for transit operating assistance, it is recognized that the complete elimination of Federal assistance in the rural and smaller urban areas would cause severe problems. For this reason, it was decided to make transit operating assistance (not to exceed the amounts used in FY 1985) an eligible activity in rural areas and in urban areas of less than 200,000. Since all highway account (HA) block grant funds can be used for mass transit capital projects and all mass transit account (MTA) block grant funds can be used for highway projects, it was considered appropriate to allow HA funds as well as MTA funds to be used for transit operating assistance subject to the restrictions noted above.

SENATOR ANDREWS: Why should highway user fee revenues be exposed to further diversion to non-highway purposes than is already provided by the Mass Transit Account of the Highway Trust Fund?

ANSWER: We believe the States should have the maximum flexibility in the use of the Highway and Transit Block Grant. We do not regard it as diversion. Prudent investments in public transportation relieve highway congestion and lessen the need for expanded highway facilities.

SAFETY CONSTRUCTION PROGRAMS

SENATOR ANDREWS: Your legislation proposed to retain the Hazard Elimination and Railroad-Highway Grade Crossings Programs as separate categories. Funded at $175 million and $190 million per year respectively. Why are the Hazard Elimination and Railroad-Highway Grade Crossings Programs not included in the block grant?

ANSWER: It would be difficult to fold these safety programs into the proposed block grant program. Block grant funds are available for a broad range of highway construction and transit uses, while these categorical programs are aimed solely at the improvement of specific high priority highway safety problems.

SENATOR ANDREWS: Why is a separate categorical treatment of these programs warranted?

ANSWER: Both programs continue to show high returns in terms of lives saved and accidents prevented, based on documented evaluation studies. Both programs have specific objectives and criteria - the identification and correction of hazardous locations and features identified through systematic surveys. Absence of such objectives and criteria in the block grant programs would reduce consideration for such needed safety improvements.

SENATOR ANDREWS: What has been the obligation experience of these programs? That is, are all the apportioned funds used?

ANSWER: Since the beginning of the Rail-Highway Grade Crossings Program in FY 1974, $1621.3 million or 91.1 percent of the $1780.1 million made available to the States had been obligated through FY 1985. Since the beginning of the Hazard Elimination Program in FY 1979, $1092.0 million or 87.0 percent of the $1255.2 million made available to the States had been obligated through FY 1985. For Fiscal Years 1983, 1984 and 1985 obligations exceeded apportionments $573.5 million to $562.4 million for the Rail-Highway Crossings Program and $607.8 million to $576.5 million for the Hazard Elimination Program.

SENATOR ANDREWS: Provide for the record a listing by State of the status of already apportioned funds. (Update of chart page 347, Senate Hearings 99 - 336, part 1, for Rail-Highway Grade Crossings, and similar display for Hazard Elimination)

ANSWER: State by State apportionments and obligations for Fiscal Years 1983 through 1985 are shown in the following tables:

RAIL - HIGHWAY CROSSINGS PROGRAM

State	Apportionments FY 83,84,85	Obligations FY 83,84,85
Alabama	11,202,962	13,284,956
Alaska	8,739,130	7,817,891
Arizona	5,429,345	5,037,373
Arkansas	8,621,883	12,150,401
California	35,206,387	26,313,283
Colorado	7,548,967	3,836,794
Connecticut	3,633,162	4,376,997
Delaware	1,754,456	1,672,252
Florida	17,338,836	16,524,191
Georgia	15,706,951	15,620,805
Hawaii	1,414,052	0
Idaho	5,257,407	5,156,504
Illinois	29,046,049	25,636,721
Indiana	19,510,938	14,887,221
Iowa	14,952,060	15,173,335
Kansas	16,721,316	18,006,587
Kentucky	9,305,278	12,213,807
Louisiana	11,105,335	6,072,175
Maine	3,364,829	3,333,591
Maryland	5,405,685	4,563,819
Massachusetts	6,936,799	6,453,710
Michigan	20,649,735	17,292,816
Minnesota	14,923,012	31,249,745
Mississippi	8,322,413	11,725,344
Missouri	14,927,359	21,294,310
Montana	6,117,693	3,802,474
Nebraska	10,171,549	11,192,442
Nevada	2,861,515	2,633,765
New Hampshire	2,289,539	1,789,738
New Jersey	9,594,986	8,950,263
New Mexico	4,099,303	4,990,647
New York	22,381,709	29,798,633

North Carolina	13,953,586	8,068,009
North Dakota	9,985,534	7,609,584
Ohio	24,049,711	23,881,057
Oklahoma	11,730,701	13,886,095
Oregon	7,687,241	4,676,376
Pennsylvania	20,816,491	39,422,136
Rhode Island	1,591,113	671,761
South Carolina	9,388,148	6,711,354
South Dakota	6,413,057	5,855,868
Tennessee	11,065,703	3,793,204
Texas	37,443,601	44,467,567
Utah	4,327,881	5,558,138
Vermont	2,204,548	2,215,244
Virginia	9,719,342	9,751,346
Washington	10,484,808	12,714,806
West Virginia	5,805,915	5,704,840
Wisconsin	14,468,401	13,546,364
Wyoming	3,233,825	2,098,034
District of Columbia	777,722	12,666
Puerto Rico	2,709,042	0
TOTAL	562,397,010	573,497,039

HAZARD ELIMINATION PROGRAM

	Apportionments FY 83,84,85	Obligations FY 83,84,85
State		
Alabama	10,750,081	11,837,756
Alaska	4,894,360	8,762,352
Arizona	7,092,950	4,183,994
Arkansas	7,624,966	10,105,278
California	45,572,001	76,064,698
Colorado	7,991,741	9,385,545
Connecticut	5,568,310	7,670,489
Delaware	2,555,153	2,548,299
Florida	20,284,847	24,272,908
Georgia	14,642,114	16,283,782
Hawaii	2,442,943	5,125,624
Idaho	4,618,342	6,599,268
Illinois	27,213,187	23,690,125
Indiana	15,612,624	10,218,106
Iowa	11,487,460	10,556,074
Kansas	11,805,288	9,039,483
Kentucky	9,365,195	9,797,943
Louisiana	10,377,494	3,536,351
Maine	3,092,190	3,330,392
Maryland	7,730,105	8,015,595
Massachusetts	10,302,769	15,449,212
Michigan	21,342,262	19,605,030
Minnesota	13,106,851	7,249,931
Mississippi	7,668,781	6,036,605
Missouri	14,128,870	13,614,671
Montana	4,789,430	6,535,464
Nebraska	7,655,287	5,016,455
Nevada	3,027,537	3,615,115
New Hampshire	2,736,483	1,641,596

New Jersey	13,214,066	5,732,492
New Mexico	4,320,905	7,686,260
New York	32,060,172	45,118,874
North Carolina	14,272,950	18,463,644
North Dakota	6,273,928	6,084,636
Ohio	24,270,027	13,754,120
Oklahoma	10,384,629	10,401,360
Oregon	9,000,008	12,412,010
Pennsylvania	24,601,693	16,471,505
Rhode Island	2,503,536	5,944,354
South Carolina	8,590,454	8,422,889
South Dakota	4,735,594	2,515,320
Tennessee	11,476,747	5,659,082
Texas	36,965,819	51,015,065
Utah	4,372,832	1,947,493
Vermont	2,707,309	2,556,835
Virginia	11,518,651	13,535,155
Washington	10,727,049	8,649,527
West Virginia	5,224,371	3,792,332
Wisconsin	13,416,882	12,580,850
Wyoming	3,045,394	2,540,009
District of Col.	2,230,260	3,504,628
Puerto Rico	5,086,339	9,232,307
TOTAL	576,479,236	607,808,888

INTERSTATE TRANSFERS

SENATOR ANDREWS: Under the current law, substitute transit projects are funded from the general fund and substitute highway projects are funded from the Highway Trust Fund at a combined FY 1986 level of $925 million. Your bill proposes to eliminate the separate authorization for substitute transit projects and provide funding for both substitute highway and transit projects from the highway account of the Highway Trust Fund. The bill authorizes the combined substitute program at $500 million per year through FY 1990. In light of your proposal to eliminate a discrete Interstate construction program, why retain a separate Interstate substitute program?

ANSWER: The Interstate construction program and the Interstate substitution program are distinct with their own attributes and problems and each should be viewed on its own merits. As pointed out, funding for the substitution program would be reduced and funded entirely from the Highway Trust Fund. The substitution program is not subject to inflationary adjustments and can therefore be stretched out with no additional Federal cost. Funding can be directed toward the highest priority transportation needs in withdrawal areas. Funding is not restricted to a particular Federal-aid system or mode of transportation and thus substantial flexibility is provided. State and local officials made decisions to withdraw various Interstate segments based on a statutory provision that a like amount of money would be provided for substitute highway and transit projects. We do not believe it would be appropriate to eliminate discrete funding for the program in light of the prior statutory commitment to provide substitute funds. Because the substitute program is limited to certain specific areas in certain States, it would not be desirable or practical to merge the substitution program with other formula programs.

SENATOR ANDREWS: What is the rationale for financing transit substitute projects from the Highway Trust Fund, especially given the greatly reduced funding level?

ANSWER: The substitution program was created to compensate for withdrawn segments of the Interstate Highway System, which would have been built with funds from the Highway Trust Fund.

Since the Interstate Transfer-Transit program would not exist but for the Interstate Construction program, we believe it is appropriate to fund substitute transit projects from the Highway Trust Fund.

SENATOR ANDREWS: When will the Interstate transfer program be complete at the funding level you are proposing?

ANSWER: Our proposed legislation would combine the highway and transit substitution programs and fund the program at $500 million per year from the trust fund. At this funding level all substitute projects could be completed by 1998.

SENATOR ANDREWS: Provide for the record an analysis of the remaining Interstate Substitute program cost-to-complete differentiated by highway and transit project.

ANSWER: We estimate the remaining funding needs for substitute highway projects to be $4,677.0 million and for substitute transit projects to be $1,053.4 million. These cost are the estimated remaining Federal funding needs for FY 1987 and beyond; funding needs in excess of the funds already authorized for FY 1986.

SENATOR ANDREWS: What guidelines would you offer for the allocation of discretionary funding under this program? Should the split between highway and transit allocations be equivalent to the split between remaining highway/transit costs? Why?

ANSWER: Allocations should primarily be based on relative immediate funding needs in excess of the apportionments. The size of an areas remaining withdrawal value and the importance of the projects, from a regional or national perspective, could be considerations in determining the allocations. Our proposal would combine the highway and transit programs. Apportionments would be based on the combined remaining funding needs for substitute highway and transit projects. Each area could use apportioned funds for either highway or transit projects. We would consider similar flexibility for the allocations to be appropriate. Funding should be made available for the highest priority needs, regardless of transportation mode. The highway/transit splits were estimated by State and local officials in late 1983 and early 1984. The splits are not fixed and, in many cases, could change significantly over the four year period of our bill. The split from the 1984 Interstate Substitute Cost Estimate (ISCE) if not already out of date, soon would be and is not considered appropriate for use in making allocations.

SENATOR ANDREWS: What special accommodation is made for the recent New York State withdrawal.

ANSWER: Under our proposed legislation the apportionment factor for New York City would reflect the recent Westway withdrawal. A provision permitting New York to obligate Interstate construction funds for New York City substitute highway projects through FY 1986 was included in the FY 1986 Department of Transportation Appropriations Act. We are working with the State to implement this provision. Any such obligations will reduce the City's withdrawal value and will be reflected in computing the apportionment factor for the City.

MINIMUM ALLOCATION

SENATOR ANDREWS: Given the efforts to reduce the Federal deficit, why does the Administration's legislation continue the 85% minimum allocation program?

ANSWER: The purpose of the minimum allocation provisions is to reduce the inequities between donor and donee States. We recognize that some States do contribute more than they receive and we do not object to trying to minimize the difference. In the interest of fairness we have decided to continue the provision that Congress included in the 1982 Surface Transportation Assistance Act. However, we are continuing it at a lower level because we also are trying to do our part to reduce the Federal deficit.

SENATOR ANDREWS: Aren't highway program needs being met by the formula program?

ANSWER: The regular Federal-aid apportionments that would be made under our proposal are sufficient to meet critical needs on the systems of major national interest, the Interstate and primary systems.

SENATOR ANDREWS: What essential purposes does this program serve?

ANSWER: The purpose of this program is to minimize the difference in what States pay in Federal highway fees and what they receive in Federal-aid highway apportionments.

SENATOR ANDREWS: How much has been allocated through this program since its inception? How much of this has been obligated? How much do you estimate will remain unobligated at the close of FY 1986?

ANSWER: The following table provides a breakdown of the amount of minimum allocation funds each State has received for fiscal years 1983 through 1986 and the amount each State has obligated as of March 6, 1986. We estimate that $239.5 million will remain unobligated at the close of FY 1986.

Minimum Allocation Funds
FY 1983 - 1986

State	Apportionments FY 1983	FY 1984	FY 1985	FY 1986	Total FY 1983-1986	Obligations as of February 28, 1986
Arkansas	. . .	. . .	$13,009,368	$8,112,723	$21,122,091	$20,573,020
California	$23,819,923	$55,296,107	118,254,298	114,146,342	311,516,670	70,448,247
Florida	11,404,222	50,782,474	. . .	. . .	62,186,696	32,517,100
Illinois	69,840,643	3,617,138	42,155,814	23,720,976	139,334,571	110,665,035
Indiana	47,820,283	34,357,020	96,168,229	61,674,243	240,019,775	173,343,890
Michigan	72,605,818	36,643,259	60,327,974	. . .	169,577,051	155,336,086
Missouri	. . .	. . .	37,431,967	. . .	37,431,967	32,736,409
North Carolina	12,714,455	7,798,862	90,282,069	59,719,287	170,514,673	43,417,254
Ohio	89,552,191	49,688,093	110,100,534	82,445,904	331,786,722	243,010,562
Oklahoma	19,764,998	12,420,758	54,198,214	40,435,121	126,819,091	86,237,500
South Carolina	. . .	. . .	1,388,824	8,569,410	9,958,234	. . .
Tennessee	. . .	. . .	30,719,459	. . .	30,719,459	30,719,459
Texas	144,020,487	169,466,242	252,182,233	189,733,456	755,402,418	492,923,756
Wisconsin	23,859,822	3,962,898	53,730,048	33,579,149	115,131,917	75,935,773
Total	515,402,842	424,032,851	959,949,031	622,136,611	2,521,521,335	1,567,864,091

SENATOR ANDREWS: Your budget justification estimates that $931 million will be obligated for this program in FY 1986, $309 million more than was distributed in FY 1986. What is the basis for this estimate?

ANSWER: At the beginning of the Fiscal Year 1986 about $1.2 billion was available for obligation in the Minimum Allocation program. We believe it is reasonable to expect the States to use 75 percent of the funds available this year.

SENATOR ANDREWS: Provide for the record an analysis of state-by-state minimum allocation obligations by program category since its inception.

ANSWER: We do not have available obligations by program category for minimum allocation funds. However, the following chart provides an analysis of the number of projects advanced under the various systems and the minimum allocation funds obligated by the States as of February 28, 1986.

Use of Minimum Allocation Funds
as of February 28, 1986

(dollars in thousands)

	Number of Projects on/off the Federal-aid System								
State	Interstate	Primary	Secondary	Urban	Multi System	Off System	Total	Construction Miles	Federal Funds
Arkansas	-0-	6	1	2	-0-	-0-	9	31.8	$20,573
California	1	25	4	129	-0-	-0-	159	30.4	70,448
Florida	9	15	-0-	1	-0-	1	26	65.2	32,517
Illinois	3	100	25	18	-0-	11	157	161.7	110,665
Indiana	1	218	128	95	4	2	448	316.4	173,344
Michigan	-0-	172	69	174	2	1	418	515.7	155,336
Missouri	3	7	-0-	3	-0-	-0-	13	10.9	32,736
N. Carolina	-0-	11	-0-	12	1	-0-	24	21.1	43,417
Ohio	47	90	300	44	-0-	16	497	858.7	243,011
Oklahoma	-0-	25	1	9	-0-	-0-	35	132.6	86,238
Tennessee	-0-	11	-0-	-0-	-0-	-0-	11	21.9	30,719
Texas	4	88	3	19	-0-	-0-	114	320.4	492,924
Wisconsin	-0-	94	2	-0-	-0-	1	97	421.0	75,936
Total	68	862	533	506	7	32	2,008	2,907.8	1,567,864

SENATOR ANDREWS: Why should obligations under this program be exempt from the Federal-aid account limitation on obligations?

ANSWER: The Minimum Apportionment program is exempt from the ceiling because including the program in the ceiling and thus in the calculation of each State's limit would be unfair to the States that do not receive a portion of those funds. This is consistent with the provision for exemption in the 1982 STAA.

SENATOR ANDREWS: The basic assumption underlying the obligation and outlay projections for FY 1987 is that obligations are equal to budget authority. Is this a reasonable assumption for the minimum allocation program, which is uncontrolled by an obligation limitation, in a year in which authorizations for the remaining programs decline drastically?

ANSWER: The total estimated obligations do equate to the total proposed budget authority. The obligation ceiling proposed for FY 1987 is lower than the estimated total obligations. The difference reflects our estimate of the States' obligation activity in the programs exempt from the ceiling, although it is possible that the States could obligate, in addition, any minimum allocation unobligated balance that they may have. It should be noted that our proposal decreases the authorizations for the minimum allocation program by capping it at $250 million.

WASTE ISOLATION PILOT PROJECT ROAD

SENATOR ANDREWS: What is the status of the Waste Isolation Pilot Project Road?

ANSWER: There are three construction projects underway totaling $15.2 million and one project had a bid opening February 28.

There are four design projects that will be going to construction between June and December of this year with an estimated cost of $23.5 million.

SENATOR ANDREWS: How much has been obligated of the FY 1985 and FY 1986 appropriated funds?

ANSWER: As of February 26, 1986, all of FY 1985 funds have been obligated. Since the FY 1986 funds recently became available there have not been any obligation incurred at this time.

SENATOR ANDREWS: What level of funding is still needed to complete this project?

ANSWER: The Federal Highway Adminstration (FHWA) 1984 Report to Congress indicated a "total mileage and cost for repair and upgrading of roads mentioned in the stipulated agreement and yearly funding schedule" as follows:

Miles	Estimated Cost 1982 Dollars ($000)	Fiscal Year
58.4	16,400	1985
54.2	16,260	1986
49.7	14,056	1987
43.6	11,270	1988
205.6	57,986	

Since the level of funding anticipated for this project was $57.9 million and $23.4 million ($16.4 Million - FY 1985 and $7.0 million - FY 1986) has been authorized, the amount needed to complete should be about $32.5 million.

SENATOR ANDREWS: Why doesn't the Administration request funding for this project? Is it necessary that this project receive funding under Transportation Appropriations? Since this project is part of a disposal site for Transuranic nuclear wastes, wouldn't it be more appropriated that such funding be contained in other appropriations? In the agreement between the Federal Government and the State of New Mexico. does it specify or is there an agreement that these funds be "transportation appropriations"?

ANSWER: The improvement of roads leading to this disposal site is the result of a court decision involving the Department of Energy. This action specified that the Department of Energy will pay for the upgrading or construction of county access roads to carry waste to the disposal site and seek a $58 million special appropriation from Congress for upgrading and repair of certain New Mexico Highways. Since the Federally aided highways are eligible for funding under New Mexico's regular Federal-Aid apportionment, we believe the State should undertake this project without special funding from the Federal Government. Furthermore, if a special interest appropriation must be provided, FHWA feels that the Department of Engergy should be the agency to request these funds since Nuclear Waste Disposal is within their purview.

ACCESS HIGHWAYS TO LAKES

SENATOR ANDREWS: Have all the FY 1985 funds been obligated?
ANSWER: All but some $5 thousand as of February 28, 1986.

SENATOR ANDREWS: Please list the projects and the amounts of FY 1985 funds allocated to each.

ANSWER: The $5 million in Access Highways to Lakes funds appropriated for FY 1985 were allocated to the following projects:

STATE	AMOUNT ALLOCATED	DESCRIPTION
Arkansas	$ 760,000	Reconstruct a 4-mile access road (State Highway 94) to the recreation area on Beaver Lake in Benton County.
Illinois	$ 570,000	Upgrade a 1.62-mile access road to the Coon Creek access area on Lake Shelbyville in Shelby County.
Michigan	$ 17,400	Upgrade the 530-foot access to Lake Ovid in Sleepy Hollow State Park in Clinton County.
Mississippi	$ 134,000	Construct .75 miles of Graysport-Gums access road in Yalobusha County to the Calhoun County line.

Nevada	$1,000,000	Reconstruct a 2¼-mile access road (Federal-Aid Secondary Route 401) to recreation areas on the south end of Rye Patch Reservoir in Pershing County.
North Dakota	$1,710,000	Seven access roads to recreation areas on Pipestem Lake and Jamestown Reservoir in Stutsman County.
South Dakota	$ 309,700	Construct a 4.87-mile access road to Lake Oahe's Dodge Draw recreation area in Potter County.
Virginia	$ 498,900	Reconstruct and widen a 4.5-mile road (Route 603) to recreational sites on Moomaw Lake in Bath County.
TOTAL:	$5,000,000	

ACCESS HIGHWAYS TO LAKES

SENATOR ANDREWS: What is the status of the FY 1986 funds?

ANSWER: Proposed projects are currently being reviewed and it is anticipated that project selection will be completed in the very near future and funds allocated shortly thereafter.

SENATOR ANDREWS: Has the Urban Mass Transportation Administration transferred the $5 million to FHWA for use in this program? If not, why not?

ANSWER: We have not as yet received the transfer of funds from UMTA. We do, however, expect to receive these funds in the very near future.

SENATOR ANDREWS: How many applications (for how much money) were received requesting funding in FY 1985?

ANSWER: Requests for 117 projects with estimated costs of nearly $120 million were received in response to our call for eligible projects.

SENATOR ANDREWS: How many applicants are there for the FY 1986 funds?

ANSWER: The legislative history behind the act appropriating the FY 1986 funds indicates that these funds are to finance projects ranked meritorious from 1985 applications, but which were not totally financed. Of the 117 project applications received in FY 1985, eight were completely or partially financed. In selecting the FY 1986 projects, FHWA will follow the guidance in the legislative history. All projects from the FY 1985 applications which still require funding will be considered candidates for the FY 1986 funds.

APPORTIONMENT COMPARISON

SENATOR ANDREWS: Provide for the record a State-by-State comparison of total estimated highway program apportionments under your legislative proposal, including minimum allocation and the highway portion of the Block Grant, to FY 1986 highway program apportionments.

ANSWER: The attached table is a comparison of fiscal year 1986 apportionments after Gramm-Rudman-Hollings reductions with the Administration's proposal for fiscal year 1987.

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TABLE COMP-5C Revised
Comparison of Estimated FY 1986 Apportionment Under Current Law
Including Gramm-Rudman-Hollings Reductions with the FY 1987 Proposed
Administration Program--Minimum Allocation Capped at $250M
(DOLLARS IN THOUSANDS)

STATE	CURRENT LAW	PROPOSED LAW	DIFFERENCE
Alabama	249,614	223,466	-26,147
Alaska	164,530	161,853	-2,676
Arizona	179,577	161,993	-17,583
Arkansas	135,543	120,126	-15,416
California	1,092,399	954,053	-138,346
Colorado	209,653	181,001	-28,652
Connecticut	289,042	198,765	-90,277
Delaware	56,540	42,301	-14,239
Dist. of Col.	74,329	67,206	-7,122
Florida	550,025	454,742	-95,283
Georgia	354,708	328,773	-25,935
Hawaii	126,085	105,087	-20,998
Idaho	94,233	86,672	-7,561
Illinois	457,652	426,116	-31,536
Indiana	278,529	241,821	-36,708
Iowa	195,181	168,714	-26,467
Kansas	168,844	161,759	-7,085
Kentucky	226,389	199,965	-26,425
Louisiana	347,966	276,991	-70,976
Maine	64,503	53,310	-11,193
Maryland	302,282	250,473	-51,810
Massachusetts	314,314	266,743	-47,571
Michigan	340,504	319,296	-21,208
Minnesota	259,769	225,477	-34,292
Mississippi	140,136	135,832	-4,304
Missouri	272,561	267,489	-5,072
Montana	120,120	113,449	-6,670
Nebraska	120,950	104,122	-16,828
Nevada	80,414	69,395	-11,019
New Hampshire	63,981	49,415	-14,566
New Jersey	387,004	333,932	-53,073
New Mexico	116,720	106,400	-10,320
New York	838,955	660,969	-177,985
North Carolina	313,350	269,877	-43,473
North Dakota	85,092	71,180	-13,912
Ohio	479,203	423,978	-55,226
Oklahoma	208,933	184,790	-24,143
Oregon	154,606	146,570	-8,036
Pennsylvania	561,755	527,533	-34,223
Rhode Island	118,880	71,311	-47,569
South Carolina	170,834	155,235	-15,599
South Dakota	92,232	78,915	-13,317
Tennessee	268,028	259,653	-8,375
Texas	925,376	791,559	-133,817
Utah	149,703	126,400	-23,303
Vermont	61,352	46,772	-14,580
Virginia	343,080	290,779	-52,301
Washington	329,820	278,862	-50,958
West Virginia	115,710	108,624	-7,086
Wisconsin	216,356	189,581	-26,775
Wyoming	92,387	80,470	-11,917
Puerto Rico	65,841	72,404	6,563
TOTAL	13,425,588	11,692,199	-1,733,389

SENATOR ANDREWS: How many States have target levels for FY 1986 that are below 10 percent?

ANSWER: Four States (Maine, Montana, North Dakota, and Wyoming) have approved goals of less than 10 percent. Maine and Montana have goals of 6 percent. North Dakota has a goal of 8 percent, and Wyoming has a goal of 5.5 percent.

SENATOR ANDREWS: Provide for the record an analysis of DBE program implementation in FY 1985, and State-by-State target levels for FY 1986.

ANSWER: In FY 1985, 45 States plus the District of Columbia and Puerto Rico had approved goals of 10 percent or more. Five States (Maine, Wisconsin, Montana, North Dakota, and Wyoming) had approved goals of less than 10 percent. Three States (Georgia, Louisiana, and North Carolina) did not meet their FY 1985 goals. In accordance with the DBE regulations, States which failed to meet their FY 1985 goals have provided explanations as to why the goals could not be achieved. All explanations have been accepted by FHWA. In FY 1985, DBE contract awards plus subcontract commitments resulted in over $1.4 billion in contract opportunities for DBE's. This represents 12.7 percent of the FY 1985 contracts.

For FY 1986, the following states have goals of greater than 10 percent: New York--12 percent, Puerto Rico--30 percent, District of Columbia--35 percent, New Mexico--11.3 percent, California--13 percent, and Hawaii--18 percent. The following States have goals of less than 10 percent: Maine--6 percent, Montana--6 percent, North Dakota--8 percent, and Wyoming 5.5 percent. All other States have goals of 10 percent.

MOTOR CARRIER SAFETY SPECIALISTS

SENATOR ANDREWS: A major highway safety initiative to hire 150 safety specialists is included in the budget request. The budget submission states that this initiative would begin in FY 1986 pending reprogramming approval. It appears from the budget that approximately 100 of the positions would be added in FY 1986. We are now six months into the fiscal year. When are we likely to see a reprogramming request? How much will this initiative cost in FY 1986? From what activities within the Bureau of Motor Carrier Safety (BMCS) would funding for this initiative be derived? How do you justify the decrease in funding for these activities?

ANSWER: The reprogramming request is in the Secretary's office and will be delivered within the next couple of weeks. This initiative in FY 1986 will cost approximately from $1.2 million to $1.5 million for salaries and other related expenses associated with the hiring of additional motor carrier safety specialists. The funding for this initiative would be derived from the activity, administration-the transfer of funds from the motor carrier safety program to the General Operating Expenses account. In P.L. 99-190, Congress appropriated $13.9 million in funding for FY 1986 for the Motor Carrier Safety program, of which not to exceed $1.601 million shall be transferred to the General Operating Expenses account. The reprogramming request would involve the utilization, to the extent necessary, of the $1.601 million to pay the salaries and other related expenses associated with these additional motor carrier safety specialists. The expenses related to the hiring of additional motor carrier safety specialists reflects the decrease in funding from the activity, administration, that would be transferred from the motor carrier safety program to the General Operating Expenses account.

SENATOR ANDREWS: How many of these safety specialists will be hired in FY 1986?

ANSWER: Pending congressional approval, we plan to hire 90 new specialists in FY 1986.

SENATOR ANDREWS: How would these additional personnel be used?

ANSWER: After an initial training period of approximately 5 weeks, the new safety investigators will be assigned with senior safety investigators for practical application of training in monitoring motor carriers for compliance with the Federal Motor Carrier Safety Regulations. A shift in the emphasis of the BMCS program will target our resources and efforts to those carriers with safety problems regardless of the size of the carrier. The key to this program will be a computer system that will integrate State inspection data, accident reports, and Federal inspection data. A significant addition to this data system will be the information collected through the Safety Fitness Determinations on the approximately 185,000 motor carriers that have never been audited by BMCS. Through this integrated computer system, we will identify problem and high risk carriers and contact them to offer educational and technical assistance to correct their safety management practices. However, for those carriers that continue to operate unsafely, we will send in a team of safety specialists to do an in-depth enforcement audit of their records and facilities and will quickly proceed with civil or criminal penalties for violations.

SENATOR ANDREWS: Where are these additional safety specialists coming from?

ANSWER: We are initiating recruitment of recent college graduates and professionals with training in transportation. We are using standard OPM procedures of posting notices at all OPM offices and State employment offices. We have sent job announcements to over 100 colleges who offer courses in transportation or related fields, including historically black schools and those with high Hispanic populations. In addition, our field staff has been contacted and has been requested to visit job placement officers at colleges in their Regions in order to explain the program and to distribute applications. We have sent the job announcement to the Federal Research Service, which is a low-cost, broad-based job placement service that specializes in helping clients find Federal jobs. We have also sent the job announcement to personnel officers of the other DOT modes.

SENATOR ANDREWS: Are these inspectors going to concentrate in specific areas like hazardous materials transportation or on particular types of operators or in particular geographic areas?

ANSWER: Initially, as previously explained, the new specialists will be utilized to ensure that all motor carriers have a current safety fitness rating. As the specialists successfully complete the 1-year training program, they may receive further specialized training and assignments in hazardous materials transportation, accident investigation, and other motor carrier safety programs. We are currently studying geographic placement alternatives for these new specialists based on current and anticipated work loads.

SENATOR ANDREWS: Why is the increased number of safety specialists necessary given the large increase in State motor carrier safety grants?

ANSWER: It is true that, with the implementation of the Motor Carrier Safety Assistance Program (MCSAP), the States have moved toward more aggressive enforcement programs primarily centered on roadside inspections. However, audits and safety fitness ratings for interstate and foreign carriers remain a Federal requirement. At the present time, approximately 185,000 motor carriers have never been audited by FHWA. Plans call for each field staff member to have a case load of approximately 700 motor carriers. Safety reviews of carriers' compliance with the safety regulations will be conducted. The specialist will educate and assist as well as continue to monitor those carriers found to have problems. Every motor carrier will be rated on their compliance with the Motor Carrier Safety Regulations.

SENATOR ANDREWS: According to a recent GAO report (September 5, 1985, GAO/RCED 85-64), the number of motor carrier inspectors was reduced by 12 percent between fiscal years 1980-1983. Why has there been such a significant shift in philosophy regarding the Federal responsibility for motor carrier safety inspectors?

ANSWER: Motor carrier safety has been the focus of increased attention because of a variety of disturbing trends in highway safety. Mileage traveled by heavy trucks has increased more rapidly than all highway travel and there has been an increase in the number of motor carrier accidents. Accidents reported to BMCS in 1984 increased 17 percent over 1983. Truck accidents, moreover, tend to be much more severe than automobile accidents and the severity of collisions between trucks and passenger cars is increasing as passenger vehicles become smaller and lighter. More than 70 percent of fatalities resulting from accidents involving trucks are occupants of vehicles other than the truck. Added to these problems are the serious consequences that can result from accidents involving trucks carrying hazardous materials, consequences that can devastate whole communities. Further, a significant percentage of trucks have been found during roadside inspections to have safety defects serious enough to warrant that they immediately be taken off the road until the defects are corrected. During the 1985 nationwide BMCS fall inspection program, 41 percent of trucks inspected were placed out of service. Given these trends and the increasing size of the reported industry, many have questioned BMCS' ability to monitor and enhance motor carrier safety as currently staffed and structured.

MOTOR CARRIER SAFETY GRANTS

SENATOR ANDREWS: Your legislative proposal would set-aside $50 million annually from the combined Interstate-primary program for the motor carrier safety grants program, an almost threefold increase from the FY 1986 funding level of $17 million. How will these additional funds by used?

ANSWER: Thirty-eight implementation States conducting operational motor carrier safety enforcement programs requested $25 million of Federal funding for proposed total programs costing $34 million in FY 1986. Another 12 States in the process of developing a program requested $500,000 more of Federal funds to support the development effort. Anticipating limited availability of Federal funds in FY 1986, State proposals reflect minimum budgets for the necessary personnel, training, and equipment to maintain their programs. We expect 46 implementation grant applications in FY 1987. With the need for all States to purchase additional equipment, plus start up costs for the new implementation States, there is a need for more grant funds. The Surface Transportation Assistance Act of 1982 (STAA) authorized up to 80 percent sharing of the costs by the Federal Government to fund the Motor Carrier Safety Assistance Program (MCSAP). Due to Federal funding constraints, many States are bearing more than 20 percent of the program costs to operate at an effective level of enforcement as required by the grant agreement. Also, we are expanding the Federal/State carrier information system called "SAFETYNET." We expect SAFETYNET to be fully operational in all participating States by the end of FY 1987.

SENATOR ANDREWS: Are the States capable of efficiently utilizing this sudden increase in funding?

ANSWER: Yes. In FY 1984, the first year of the program, 46 States participated in MCSAP, with 29 in development and 17 in program implementation. The principal implementation activity the first year was devoted to the recruitment, hiring, and training of State enforcement officers. In FY 1985, 49 States participated in the program, 28 in implementation. While the principal implementation activity continued to focus on recruitment, hiring, and training of State enforcement personnel, in succeeding years, emphasis will be placed on increasing the number of State roadside driver-vehicle inspections. In FY 1986, 39 States received implementation grants and 12 received development grants. Six States or territories are not participating. We expect eight States to apply for implementation funding in FY 1987 and three new States to apply for development funding. In summary, we feel that the States are even capable of efficiently using funds beyond the requested increase.

SENATOR ANDREWS: What increase in roadside inspections is expected to result from this level of funding?

ANSWER: We expect the States to conduct 2 million roadside inspections of all commercial traffic and 10,000 safety audits of intrastate motor carriers. We expect States, with an increased presence of 4,000 State enforcement personnel, to increase roadside driver-vehicle inspections from the projected FY 1986 level of 600,000 to 2 million. States further anticipate increasing safety management audits on intrastate carriers from an uncertain projected start-off amount in FY 1986 to 10,000 by the end of FY 1987.

SENATOR ANDREWS: Your budget justification states that the purpose of the grant program is to raise the level of enforcement, not to substitute Federal for State and local dollars. The GAO Report (September 1985) found that the grant program had some significant management deficiencies, including lack of a program monitoring mechanism or method of evaluating program performance.

Given these findings, how can we be assured that this increased funding will not in fact substitute for existing State and local efforts?

ANSWER: The FHWA has taken several steps to assure proper utilization of MCSAP funds. A 5-day performance monitoring and evaluation course was implemented at the Transportation Safety Institute, Oklahoma City, for all Federal MCSAP managers. In addition, comprehensive guidelines have been issued to all MCSAP managers. All MCSAP applications are thoroughly reviewed at both the field and Headquarters offices of FHWA. Federal Program Managers must also develop a monitoring plan for the evaluation of the MCSAP activities under their responsibility. Finally, States are required to submit quarterly and annual progress reports and evaluations.

SENATOR ANDREWS: Your proposed legislation would also establish a mechanism so that States can use a portion of their Interstate/Primary apportionments to supplement the $50 million set-aside. Why not just establish motor carrier safety activities as an eligible activity under the Interstate/Primary program instead of setting aside a specific amount that can be further supplemented?

ANSWER: Making the Motor Carrier Safety program only an eligible activity under the Interstate/Primary program would not give it as much emphasis as is needed. The $50 million set-aside ensures dedication of funds exclusively for this vital program.

INTERSTATE CONSTRUCTION FUNDS LAPSE

SENATOR ANDREWS: How much Interstate Construction funds do you anticipate will lapse at the close of FY 1986 under current law?

ANSWER: Based on an in-house survey FHWA anticipates that $278 million in Interstate Construction funds will lapse at the close of FY 1986 under current law.

SENATOR ANDREWS: Under the terms of your legislative proposal, what happens to Interstate construction funds that lapse at the close of FY 1986?

ANSWER: Under our proposal no Interstate construction funds will lapse on September 30, 1986. Unobligated balances of Interstate construction funds previously apportioned or allocated to a State and available to a State on September 30, 1986 will remain available for obligation for Interstate construction projects in that State until October 1, 1990.

SENATOR ANDREWS: Would a State be permitted to retain these Interstate construction funds even if the project, say, for example, H-3 in Hawaii or the Third Harbor Crossing in Boston, is never constructed?

ANSWER: Yes, a State would be permitted to retain Interstate construction funds that were available to it on September 30, 1986 even if the projects on which the distribution was based were never built. However, since the unobligated balance of Interstate construction funds can only be used for Interstate construction projects, the funds would lapse on October 1, 1990 if the State did not use them for Interstate construction.

SENATOR ANDREWS: Your general operating expenses request indicates the elimination of 158 positions at a savings of $7.5 million associated with the privatization of the Turner-Fairbank Highway Research Facility activities. What activities are these personnel presently performing?

ANSWER: There will not be an anticipated savings of $7.5 million associated with the privatization of the Turner-Fairbank Highway Research Center. The dollars associated with the reduced FTE's will be used to cover anticipated contracting costs. Activities currently performed by the staff of the Offices of Research, Development, and Technology located primarily at the Turner-Fairbank Highway Research Center may be divided into four main functions. Individual employees, in general, are involved in more than one of these functions, which are listed below in descending order of FTE effort:

1. Planning, development and management of a national program of highway research and development including identification of critical problems and program formulation; managing the FHWA Contract Research and Development program; promoting, coordinating and monitoring research of the State highway agencies funded from the Highway Trust Fund; maintaining liaison with national professional organizations, Federal laboratories and international associations; developing and managing formal bilateral and multilateral international agreements for technical cooperation in highway research.
2. Develop, promote and manage a national program of technology transfer to ensure the prompt and effective utilization of research results produced by the research program or that of others which may be useful in the highway program.
3. Develop and conduct the in-house research activities utilizing the laboratory facilities of the Turner-Fairbank Highway Research Center and monitor and direct the activities of the on-site support contractors.
4. Provide specialized technical assistance to field offices of FHWA and/or State highway agencies on urgent special problems closely related to current or previous research activity.

SENATOR ANDREWS: Who will perform these functions under the privatization?

ANSWER: The Federal Highway Administration is currently preparing a Statement of Work for a contract study to determine the feasibility of the private sector performing and managing the functions. The planned study will review the functions and responsibilities, and other considerations such as legislative mandates. Following the functional analysis, the contractor will develop optional approaches which could be considered, including operational management of the program and the TFHRC activities by a contractor, university, or association.

SENATOR ANDREWS: How will FHWA oversee the operations of the Research Facility under privatization? How many positions will this require? What happens to the Facility?

ANSWER: Decisions regarding oversight of the operations of the research facility, personnel requirements, or facility utilization cannot be made until the feasibility study is completed.

SENATOR ANDREWS: What are the reduction-in-force (RIF) costs in FY 1987 associated with the elimination of these 158 positions? Where are these costs indicated in your budget justification?

ANSWER: RIF costs cannot be estimated until it is determined if additional functions now performed by the staff of the Offices of Research, Development, and Technology can properly be privatized. It should be noted that a good number of the support activities at the Turner-Fairbank Highway Research Center are already performed by onsite contractors, as a result of earlier reductions in force and cost effectiveness studies.

SENATOR ANDREWS: What savings will be achieved in FY 1987 through the privatization of the research facility?

ANSWER: There will be no dollar savings associated with the privatization of the research facility. The dollars associated with the reduced FTE's will be switched from salaries to other objects of expense to cover anticipated contracting costs.

ADMINISTRATIVE SAVINGS

SENATOR ANDREWS: Your General Operating Expenses request indicates the elimination of eight positions at a savings of $340 thousand under the heading "administrative savings". How will these savings be achieved? From which program areas will these positions be taken?

ANSWER: The reduction of these eight positions will be achieved through normal attrition; hence, program areas cannot be specifically identified.

ADMINISTRATIVE TAKEDOWN

SENATOR ANDREWS: According to your analysis of the administrative takedown applied toward General Operating Expenses for FY 1987, the estimated unobligated balance at the close of FY 1986 of funds previously taken down for administrative expenses was $190 million. This administrative takedown is made from authorized funds before apportionments are made to the States and thus decreases the amount made available to the States for highay construction activities. Your analysis indicates that you intend to takedown 2.25 percent ($231 million) from Interstate and non-Interstate authorizations in FY 1987. Estimated obligations for General Operating Expenses from Federal-aid Highways are estimated to be about $199 million, leaving an unobligated takedown balance at the close of FY 1987 of approximately $221 million. Why is it necessary to carry over an unobligated balance for administrative expenses that exceeds the annual amount made available for this purpose?

ANSWER: The administrative takedown from Federal-aid Highway authorizations constitutes the only source of funding for financing the overhead expenses associated with administering the Nation's highway construction program. In order to assure that sufficient funds are available to finance the administrative operations of the Federal Highway Administration, it has been the basic policy to deduct the lowest possible percentage from the various program authorizations while maintaining an unobligated takedown balance equal to at least one full year's estimated costs of this administrative overhead. The policy being followed in FY 1987 is the same as it has been in the past.

SENATOR ANDREWS: Wouldn't it be prudent, especially given the large program level reductions in your proposed legislation, to maximize apportionments to the States by reducing the administrative deduction percentage proposed for FY 1987?

ANSWER: We have always been very prudent in applying the administrative takedown percentages to the program authorizations thereby allowing the States the maximum amounts for highway construction activities. It is noted that since the inception of the Highway Trust Fund, approximately 98.4 percent of all program dollar authorizations have been utilized for actual construction projects with only 1.6 percent being used for overhead costs. We believe that this ratio of overhead costs to construction is one of the best, if not the best, in all of government. It should also be noted that the legislative proposal excludes the Highway Block Grant ($2.2 billion) from the takedown thereby resulting in a higher percentage being applied to the other program authorizations.

INTERJURISDICTIONAL TRUCKING PROGRAM

SENATOR ANDREWS: Your justification states that the current International Registration Information System (IRIS) contract with the American Association of Motor Vehicle Administrators (AAMVA) will be completed in early FY 1987. This will complete demonstration of IRIS and facilitate a staged transition plan to achieve full funding by the States. How many States are currently participating in the International Registration Plan?

ANSWER: Presently 33 States and one Canadian Province (Alberta) are in the International Registration Plan (IRP). Four additional States are expected to apply this year. All but six of the remaining States are actively pursuing participation in the IRP within the next few years. The District of Columbia is also considering participation. The AAMVA and the National Governors' Association (NGA) have contacted all States not presently in the IRP and, based on their findings, are developing plans to bring all States, except Alaska and Hawaii, into the IRP. These plans are to be pursued in cooperation with the American Trucking Associations, Inc.

We anticipate that Federal funding support for IRIS will end in FY 1987. Regarding future work under the Interjurisdictional Trucking Program (ITP), we are having discussions with AAMVA, NGA, and others to identify other administrative problem areas encountered by the motor carrier industry. Possibilities are further work in fuel use taxation and implementation of the new NGA motor carrier policy. We are conducting our own review of new areas for the ITP.

SENATOR ANDREWS: Are the States, through AAMVA, willing and able to sustain the impetus generated by FHWA participation in this program?

ANSWER: At present, the AAMVA has not been able to interest enough States to use IRIS to sufficiently fund the Association's continued support of the current system. AAMVA is exploring new ways to assist the States in this critical area of administrative support for the IRP.

After several demonstrations and much consideration of the features of IRIS, many States have identified two problems with the system. The first problem is the cost of time sharing on the vendor's mainframe computer. This includes the telephone line costs for communications with the vendor's computer. The second problem is the "batch" versus "on-line" mode of system operation. The IRIS operates in the batch mode. In the batch mode, computer jobs are submitted to the operator who enters them into the machine sequentially on a time available basis. However, many States prefer having instantaneous access to the data files that would be available only with an on-line system.

The availability of IRIS has encouraged recent entrants to participate in the IRP. These States made use of the IRIS system to get started and then converted to other systems that better met their needs.

HIGHWAY SKILLS TRAINING

SENATOR ANDREWS: The highway skills training funded under the contract program provides training for women and minorities for employment in highway construction crafts. This program was funded at $4,077,000 for FY 1985 and $4,797,000 for FY 1986. Why is the program proposed to decrease to $2,500,000 for FY 1987?

ANSWER: The skill training program has been the subject of numerous studies, including studies by the Office of Inspector General (OIG). A report by the OIG suggests that the program could be discontinued because of questionable effectiveness. Our consideration led us to agree with the OIG, and we are proposing a phaseout over a 2-year period by reducing our request to $2.5 million in FY 1987 and 0 in FY 1988. We are considering a legislative proposal which would make this program an eligible cost under the combined I-IR-Primary program. States willing to continue this program could do so under this proposal.

RIGHT-OF-WAY REVOLVING FUND

SENATOR ANDREWS: Your proposed legislation would continue the current policy of making interest free cash advances to the States for the purpose of purchasing right-of-way parcels in advance of construction for projects on the Interstate System, but will require interest on advances for non-Interstate projects at the "current value of funds rate." Why is this policy change being proposed?

ANSWER: We have proposed the changes in Section 106 for two primary reasons. The first is to provide for a more equal sharing of the costs associated with purchasing and then holding rights-of-way for an extended period of time before actual use in highway construction. At present, the Federal Government bears the entire cost. We also believe that States will be more selective in requesting advance funding for these projects if they have to bear this cost. The second reason is to provide an incentive to start physical construction in a more timely manner. This has been something of a problem in administration of the revolving fund.

SENATOR ANDREWS: Wouldn't implementation of this policy increase the cost of non-Interstate Federal-aid highway projects?

ANSWER: Implementation would increase the State's share of cost by the amount of interest paid and decrease the Federal share by a like amount because interest would be paid to the Federal Government. There is no net increase in costs by reason of this provision. Federal funds advanced to a State would otherwise be accumulating interest in the Highway Trust Fund.

SENATOR ANDREWS: Doesn't this contradict the original intention of the program to lower overall costs by providing interest free money in advance?

ANSWER: While this provision would change the way in which costs are shared, it still enables the States and FHWA to target those projects where right-of-way costs are escalating rapidly, but where immediate physical construction is not prudent because of higher priorities elsewhere. It continues to result in highway improvements being built at the lowest total cost possible, but with a more equitable sharing of the cost associated with making this possible.

SENATOR ANDREWS: What is the interest revenue expected under this program?

ANSWER: We expect that this provision will result in a shift of demand for revolving funds to Interstate System projects, so our answer is necessarily an estimate. We anticipate first year interest revenues will be nominal because expenditures and advances lag behind obligations. As time passes and assuming continuation of the $50 million ceiling on annual revolving fund obligations, we estimate that interest revenues would level off at about $5 million per year after 5 years.

SENATOR ANDREWS: What interest rate will States be charged for borrowing?

ANSWER: This rate is set quarterly by the Secretary of the Treasury. As of March 1986, it is 8%. The rate was 9% throughout 1984 and 1985.

WASHINGTON BELTWAY RESTRICTIONS

SENATOR ANDREWS: It was recently reported that both Virginia and Maryland intend to continue the present restrictions limiting truck traffic to the right hand lanes on selected portions of the Washington Beltway. Continuation of this policy seems to have been based on driver perception that the Beltway is safer. Under these restrictions is there any evidence that accidents involving trucks are decreasing? Do you support continuation of this program?

ANSWER: The truck-lane restrictions on the Washington Beltway have only been in effect in Virginia and Maryland since December 1984. Consequently, only a little more than one year of data is available while the restriction has been in effect to compare with the prior years of non-restricted operation. Preliminary studies based on this limited database indicate no significant changes in either overall accident experience or operations (e.g., average speed, density, or flow). However, one year of accident data is statistically insufficient to reliably evaluate a change in accident trends. Since accidents are actually rare events in time, accepted statistical practice calls for at least three years of both before and after accident data to determine, with any degree of confidence, whether the accident experience has truly been altered. Therefore the intention of both Virginia and Maryland to collect more data and continue the evaluation of the effects of the restrictions is a sound one based on proper statistical practice, and it is one that the Federal Highway Administration supports. It is simply too early at this time to draw any conclusions about the impact of these restrictions, if any, on either safety or operations.

SENATOR ANDREWS: Given the perceived success of this program, would you recommend implementation of similar restrictions in other areas?

ANSWER: The perceived success of these restrictions is at this time more in the eyes of the drivers than it is in documented evidence. There is no statistically reliable data from the Washington Beltway experience, or from any other State where truck-lane restrictions have been implemented, to indicate that any significant changes have occurred. In most instances, truck-lane restrictions have been implemented but never studied to determine if either accident trends or operations have been altered. Where a limited number of studies have been conducted and data collected, no statistically significant changes of any kind have yet to be found. Therefore the perceived success of these restrictions remains just that, a perception. Consequently, the Federal Highway Administration will wait along with Virginia and Maryland to see if the Washington Beltway study will ultimately show otherwise. It is the responsibility of the States to decide if truck-lane restrictions should be implemented. However, the agency will support, as needed, any State or jurisdiction which elects to implement such restrictions, and will encourage the evaluation of their experience. In so doing we should all gain a clearer understanding of truck-lane restrictions as treatments for improving the safety and the operations of our Nation's highways.

DAVIS-BACON

SENATOR ANDREWS: Your legislation proposes to exclude Federal participation in any costs caused by State Davis-Bacon rates that are higher than the Federal Davis-Bacon rates. How much do such costs add to the Federal-aid highway program.

ANSWER: Our conservative estimate of the savings in Federal-aid funds expected to result from the adoption of our proposal to end Federal-aid reimbursement of the excess costs resulting when State wage determinations are higher than the Davis-Bacon wage is $60 million, annually. This savings estimate is based on an estimated average wage differential of 5 percent in those States where the State-determined wage rate is higher than the Federal rate. Differences between State prevailing wage determinations and the Federal Davis-Bacon wage vary from State to State, from area to area within a State, and from project to project, and there are many examples of wage differentials of as much as 20 to 30 percent.

SENATOR ANDREWS: Provide for the record a list of those States that have Davis-Bacon rates exceeding the Federal level.

ANSWER: The identity of States in which the State-determined prevailing wage rate exceeds the Federal Davis-Bacon wage can change from time to time as new wage determinations are made at both the Federal and State level. Based on the latest information avilable to the FHWA, we believe that State Davis Bacon rates often exceed the Federal Davis-Bacon wage in the following States: Alaska, California, Hawaii, Massachusetts, Minnesota, Missouri, Nevada, New Jersey, New York, Washington, West Virginia, Wisconsin, and Wyoming.

TOLL PROVISIONS

SENATOR ANDREWS: Your legislation proposes to permit the construction of new toll highways using Federal-aid highway funds. Why are you proposing this change in policy?

ANSWER: In this time of reduced program levels and increasing highway needs in many parts of the country, we believe the States should have the flexibility to use Federal-aid in conjunction with toll financing. The States have to look at the highway program on a statewide basis and have to allocate their resources accordingly. By combining Federal-aid and toll financing, they may be able to proceed with projects for new highway facilities that might otherwise be decades in coming.

SENATOR ANDREWS: Do you anticipate that remaining Interstate System gaps will be constructed as toll roads?

ANSWER: We do not have any specific proposals, but there are several segments which were proposed at some time in the past for toll financing. Most of them are being constructed as nontoll facilities in accordance with regular Federal-aid procedures. Florida, Pennsylvania, South Carolina, Texas and Illinois, have been giving serious consideration to using toll financing for new highway construction principally for routes not on the Interstate System. Whether or not they will avail themselves of the provisions of our proposed legislation for the construction of any remaining Interstate gaps will depend upon the conditions that exist when the provisions take effect. At this time we are not aware of any State plans to use this new provision for Interstate construction work.

BRIDGE PROGRAM

SENATOR ANDREWS: The Administration's Reauthorization proposal would establish a Primary system bridge program authorized at $1.25 billion per year. Bridge needs off the Interstate and Primary system would be met through the block grant. The discretionary portion of the bridge program would increase from $200 million to $250 million per year. How does this proposed $1.25 billion authorization track with obligations for Primary system bridge projects under the current $2.050 billion bridge program authorization?

ANSWER: Through the life of the HBRRP, over 44 percent of obligated funds has been spent on the Primary system. Considering that 15 percent of the apportioned funds must be spent on the off-system (about 20 percent is actually spent) and the FHWA encouragement for the fair and equitable distribution of funds throughout the State, the proportion of funds obligated on the Primary system is very good.

The average age of Primary system bridges is about 37 years and the amount of truck traffic on them is increasing.

SENATOR ANDREWS: Is this authorization level sufficient to meet bridge needs on the primary system over the period 1987-1990?

ANSWER: The proposed authorization levels for FY 1987-1990 would be sufficient to replace or rehabilitate all structurally deficient bridges on the primary system. In addition, some major bridges on the primary system classified as functionally obsolete for safety reasons could also be replaced or rehabilitated.

SENATOR ANDREWS: Why are you proposing to increase the discretionary portion of the program to $250 million (from $200 million)?

ANSWER: The current discretionary bridge planning list includes 222 bridge projects which the States have submitted as candidates for replacement or rehabilitation (190 with rating factors of 100 or less, the cutoff point for consideration under the new regulation). The 222 projects would cost an estimated $6.5 billion and would require $5.2 billion in discretionary bridge funds (80 percent of eligible costs) if fully funded from the discretionary bridge category.

As of December 31, 1985, the FHWA had selected 84 of 222 bridge projects for funding. The total cost for these 84 projects is $2.9 billion and $1.6 billion has been allocated through December 31, 1935. The FHWA estimates that approximately $500 million more in Federal funds will be required to complete these ongoing projects (some projects are not funded at 80 percent of total project cost).

The total project costs for the remaining 138 projects is $3.6 billion and they will require approximately $2.9 billion in Federal funds if fully funded from the discretionary bridge category. Of these 138 projects, 91 are located on the Federal-aid Primary system and have a total project cost of $2.5 billion. The FHWA proposes to increase the discretionary portion of the program to $250 million in order to reduce this backlog of unfunded candidates on the Primary system.

SENATOR ANDREWS: How many requests and what total dollar value of requests for FY 1986 bridge discretionary funding did you receive? Please provide a list of these projects for the record.

ANSWER: The FHWA received the following requests for FY 1986 bridge discretionary funding:

I. Funded Projects

A. Projects that have already received discretionary funding.

No. of Projects -- 19
Total dollar value of requests -- $164.560 million

B. New project starts in FY 1986

No. of Projects -- 4
Total dollar value of requests -- $30.960 million

Total dollar value for funded projects -- $195.520 million. The table labeled 'FY 1986 Discretionary Bridge Allocations' lists discretionary amounts allocated for all funded projects in FY 1986.

II. Unfunded Projects

A. Projects that have not already received discretionary funding.

No. of projects -- 86
Total dollar value of request -- $397.063 million

The table labeled 'Unfunded Projects' is a listing of all unfunded projects requesting discretionary funds in FY 1986. It should be noted that there are an additional 52 unfunded projects not requesting funds in FY 1986. These will need funding in future fiscal years along with new candidates not submitted to date.

FY 1986 DISCRETIONARY BRIDGE ALLOCATIONS

Continuing Projects

State	Name	Amount of Discretionary Funds Allocated
ME	Million Dollar Bridge	$ 1,200,000.00
NY	Brooklyn Bridge	52,080,000.00
NY	Manhattan Bridge	720,000.00
NY	Queensboro Bridge	7,080,000.00
WV & OH	Wierton-Steubenville Bridge	500,000.00
AL	Cochrane Bridge	34,079,529.00
MS & LA	Natchez-Vidalia Bridge	3,320,000.00
SC	Sampit River Bridge	200,000.00
SC	James Island Bridge	12,000,000.00
IL	US 36 (Florence) Bridge	29,030,000.00
IL	Franklin Street Bridge	770,000.00
IL	Staley Viaduct	960,000.00
MN	High Bridge	14,799,000.00
IA	Burlington Bridge	722,000.00
IA & IL	Keokuk Bridge	400,000.00
MO	ASB Bridge	1,000,000.00
MO	US 67/MO River	609,580.68
NE & IA	Nebraska City Bridge	480,000.00
CA	Golden Gate Bridge	4,560,000.00
	Subtotal	$ 164,560,109.68

New Projects Starts *

State	Name	Amount of Discrectionary Funds Allocated
NH	Notre Dame Bridge	$ 4,900,000.00
MD	US-50-301/Severn River	11,200,000.00
VA	Williams Viaduct	12,000,000.00
MN & WI	Wabasha Bridge	2,860,000.00
	Subtotal	$ 30,960,000.00
	Total	$195,520,109.86

* Funds authorized for construction only.

Unfunded Projects

Bridge Name	State	Federal-aid Funds Requested for FY 86
West End Br	PA	$400,000.00
14th Street Br	GA	$800,000.00
Newark Viaduct (NJ RTE 21)	NJ	$1,440,000.00
IL ST 146 over MS River	MO	$80,000.00
Williamsburg Br	NY	$4,000,000.00
Oldtown Br	ID	$8,089,600.00
Niantic River Br	CT	$2,800,000.00
Port Vue Br	PA	$1,600,000.00
SR 115 over MO River	MO	$80,000.00
SR 5 Over MO River	MO	$80,000.00
Catawissa Br	PA	$7,900,000.00
RT. 9 over Bass River	NJ	$640,000.00
Potato Slough	CA	$578,000.00
23rd St Viad Incl Deliv Ramp	CO	$1,400,000.00
Arroyo Seco Canyon Br	CA	$1,120,000.00
Maynard Street Br	PA	$925,000.00
Brickell Avenue Br	FL	$408,000.00
SR 115 over TN River	TN	$240,000.00
Rt. 9 over Raritan River	NJ	$897,600.00
William B. Crumpton Br	AL	$11,236,374.00
6th St. Br. over Saginaw Rv.	MI	$1,360,000.00
Prescott Br	WI	$1,120,000.00
Old Williamstown-Marietta Br	WV	$1,600,000.00
South Slough Br	OR	$960,000.00
Bloomington Ferry Br	MN	$2,200,000.00
Appomattox Br	VA	$240,000.00
Walnut Street Br	PA	$20,960,000.00
Milton Br	PA	$8,080,000.00
SR 8 over TN River	TN	$240,000.00
Bainbridge Street Br	PA	$6,160,000.00
Girard & Belmont Ave. Br	PA	$13,984,000.00
Lewisburg Br	PA	$644,000.00
Highland Park Br	PA	$14,648,000.00
Dan Ryan Expressway	IL	$15,120,000.00
Tarentum Br	PA	$9,600,000.00
RT 147 over Grassy Sound	NJ	$1,316,000.00
Brooklyn-Brighton Br	OH	$15,680,000.00
North Star Br	MN	$400,000.00
Rt 152 over Broad Thorofare	NJ	$17,600,000.00
Alsea Bay Br	OR	$1,920,000.00
Mifflinville Br	PA	$1,040,000.00
Kings Highway Br	VA	$640,000.00
Lake Street Br	MN	$800,000.00
RT 1&9 SB over Waverly Yards	NJ	$4,000,000.00
Father Baker Br	NY	$3,722,000.00
Ford City Br	PA	$1,200,000.00
Shadle Br	WV	$1,200,000.00
Danville Br	PA	$1,107,000.00

Wells Avenue overpass	NV	$210,000.00
US 84 OV Red RV @ Coushatta	LA	$12,800,000.00
US 40 Over MO River	MO	$5,000,000.00
US 27 Over OH R (Central BR)	KY	$2,080,000.00
McKees Rocks Br	PA	$12,800,000.00
13th Street Viaduct	GA	$8,720,000.00
Santa Clara River Br	CA	$600,000.00
Port Orange Causeway	FL	$1,007,200.00
US 63 Over MO RV at Jeff Cty	MO	$600,000.00
City Waterway Br	WA	$370,000.00
Packer Island Br	PA	$11,700,000.00
Nueces Bay Causeway - NB	TX	$8,160,000.00
US 81 Over MO River	SD	$200,000.00
Nueces Bay Causeway - SB	TX	$9,440,000.00
SR 291 Over MO River	MO	$80,000.00
US 30 Over MO River @ Blair	NE	$6,320,000.00
Edison Br	FL	$360,000.00
Constitution Br	PA	$400,000.00
WA Baum Roanoke Sound	NC	$14,400,000.00
Ouachita River Br	AR	$8,000,000.00
Ebey Slough Br	WA	$300,000.00
Willow Slough	KY	$1,200,000.00
Red RV Br at Fort Buhlow	LA	$700,000.00
Acosta Br	FL	$236,000.00
Suspension Br	KY	$2,080,000.00
Dickey Place Br	IN	$11,844,000.00
Jewish Creek Br	FL	$440,000,00
Arch Street Br	PA	$800,000.00
US 67 OV MS River	MO	$800,000.00
Market Street Br	WV	$1,600,000.00
Fitzhugh Br	TN	$31,963,200.00
West Pennway Br	MO	$8,800,000.00
US 36 Over MS River	MO	$80,000.00
Boynton Beach	FL	$2,056,800.00
Wheeling Suspension Br	WV	$1,500,000.00
Eagle Avenue Br	OH	$960,000.00
Charter Oak Br	CT	$8,600,000.00
Talmadge Br	GA	$27,600,000.00
	Total	$397,062,774.00

SENATOR ANDREWS: What total cost remains on bridges which have already received discretionary funding? Provide a list of this information for the record.

ANSWER: Discretionary bridge funds in the amount of $488.1 million are needed to complete projects already begun. A listing of these projects is as follows.

Discretionary Bridge Program

Federal Funds Needed To Complete Projects Already Begun *

1.	Million Dollar Bridge	ME	$ 82.6 million
2.	Manhattan Bridge	NY	74.7
3.	Queensboro Bridge	NY	60.5
4.	James Island Bridge	SC	58.7

5.	Brooklyn Bridge	NY	50.5
6.	Franklin Street Bridge	IL	29.1
7.	US 34 at Burlington	IA	27.0
8.	Russian River Bridge at Preston	CA	26.8
9.	Main Avenue Bridge	OH	25.8
10.	Staley Viaduct	IL	23.3
11.	Notre Dame Bridge	NH	14.8
12.	ASB Bridge	MO	7.9
13.	Wabasha Bridge	WI&MN	6.4
			$488.1 million

* Several other active projects may need small amounts of funding before completion. The total additional cost for these projects is not expected to exceed $10.0 million.

SENATOR ANDREWS: What process is used to select discretionary bridges for program funding?

ANSWER: The Surface Transportation Assistance Act of 1982 required the development of a selection process for discretionary bridges using a rating factor based on specific criteria noted in the Act. A final regulation was published in the Federal Register on November 17, 1983.

After the effective date of the regulations (December 19, 1983) for the discretionary bridge candidate rating factor, only candidate bridges not previously selected with a computed rating factor of 100 or less remain eligible for consideration.

Because first priority in allocation is to continue projects previously begun, only two new projects were selected in FY 85 and four in FY 86 within available funding, all with rating factors less than 10.

OREGON GRADUATE CENTER

SENATOR ANDREWS: The committee provided $300,000 for research and development studies with the Oregon Graduate Center in welding and structural alloys research. Where is it in the budget justification?

ANSWER: Funds for this research are made available from the FY 1986 FHWA R&D budget in the amount of $310,000 less the reduction caused by the GRH Act.

SENATOR ANDREWS: What is the status of this project?

ANSWER: Contract documents have been prepared for the transfer of the funds to the Oregon Graduate Center. Several meetings to discuss technical details of the work have been held between FHWA welding experts and Dr. William Wood of the Oregon Graduate Center. In addition, a preliminary work statement has been received and is under review. We expect that a mutually satisfactory work statement will be worked out in the near future.

SENATOR ANDREWS: Is FHWA proceeding in this area as directed by the Committee? If not, why not?

ANSWER: FHWA is proceeding as directed to provide of the funds expended for research and development $300,000 to the Oregon Graduate Center for welding and joining structural alloys and related materials research.

RESEARCH AND DEVELOPMENT

SENATOR ANDREWS: In response to the Gramm-Rudman-Hollings (G-R-H) sequestering, it appears as though research and development was cut approximately 12 percent vs. the 4.3 percent suggested by G-R-H. Why was research reduced? Which programs were considered higher priority?

ANSWER: All budget line items were cut 4.3 percent as suggested by G-R-H. R&D Highways is under General Operating Expenses, (G.O.E.). After examining fixed expenses in G.O.E., an administrative decision was made not to cut other programs such as salaries, printing, and travel in FY 86.

BRIDGE INSPECTIONS

SENATOR ANDREWS: The Inspector General advised FHWA last year of concerns raised in audits in three different FHWA regions on the safety of bridges in the United States. Specifically, the safety problems dealt with State and local Governments not adhering to National Bridge Inspection Standards. These standards require that bridges be inspected every two years, and deficient bridges be posted as to the maximum safe load limits. Many bridges remained uninspected for four years or more and many bridges were not properly posted, according to the inspector general. Even when bridges were posted, there was no enforcement of the safe load limit. What measures has FHWA taken in response?

ANSWER: The FHWA has taken positive action to improve compliance with the National Bridge Inspection Standards (NBIS). In May 1985 a memorandum was issued to FHWA field offices that established a time frame in which noncomplying governmental entities must either, 1) be in compliance with the NBIS or 2) have an aggressive, short term plan to bring them in compliance, or further approval of Federal-aid projects would be suspended.

Most all agencies have attempted to meet these requirements. However, approval of some Federal-aid projects has been temporarily withheld in some local entities. In about 6 months, out of date inspections improved about 25 percent and the number of bridges which should be posted but are not, decreased approximately 40 percent. Further improvement is expected to continue.

BID RIGGING

SENATOR ANDREWS: In a hearing before this Subcommittee last week, the Inspector General stated that FHWA is developing a statistical/analytical software package for the detection of bid rigging which will be provided to the States. How would this software package work?

ANSWER: In order for a State to use the Highway Collusion Detection System (HCDS) software package, they will need to establish and maintain an up-to-date computerized data base of contract bid information. Using statistical techniques, the program will sort and analyze this data and produce various reports showing whether or not there are any indications of bid collusion. Through the use of these analysis procedures, prosecutors will be able to concentrate their detailed investigative efforts in areas where there is a high probability of bid collusion.

SENATOR ANDREWS: What is the status of development of this software package?

ANSWER: The programming work for the HCDS has been completed and will be final tested by the FHWA in the very near future. Final documentation of the program will be accomplished shortly after the testing is completed.

SENATOR ANDREWS: When will it be made available to the States?

ANSWER: The current schedule calls for all contract work to be accomplished by July 11, 1986. Distribution to interested States can begin soon after that date.

SENATOR ANDREWS: Do you consider bid rigging to be a permanent problem for the highway program, or are there ways in which it can be eliminated?

ANSWER: Bid rigging tends to be a permanent problem, although the scale of it may reach various levels of significance. While there may be periods of apparent little activity, the potential will undoubtedly always be there. However, effective use of deterrents, such as prosecution, fines, debarment, and even the use of statistical/analytical based bid reviews, should keep the instances of bid rigging to a minimum.

Senate Studies Requested

SENATOR ANDREWS: FHWA recently sent a letter to the committee stating that studies requested on longer combination vehicles (LCVs) and the Virginia outer beltway would be delayed a month. Are you going to meet the extended deadline?

ANSWER: The deadline for submitting the longer combination study was extended until May 1, 1986, in order to give all interested parties an opportunity to comment on the study. Comments are now being analyzed, and we expect to be able to meet the May 1 completion date.

The completion date for the Virginia Outer Beltway Study has been extended 2 months, with a due date of May 31, 1986. The delayed submission was requested in order to incorporate the results of a Washington Council of Governments (WashCOG) traffic analysis of alternative beltway locations. The WashCOG report is expected by mid-April and we anticipate no problem in meeting the May 31 completion date.

SENATOR ANDREWS: How is the Prince George's County, Maryland study progressing? Please elaborate.

ANSWER: The study is on schedule. The FHWA has completed the draft report. The report has been circulated for review internally and to the Maryland State Highway Administration. Comments are being incorporated into the final report. The FHWA plans to submit the report to Congress by April 15.

NATIONAL TRUCK DRIVERS' LICENSE

SENATOR ANDREWS: Legislation was recently introduced in the Senate by Senators Danforth and Packwood calling for the Department of Transportation to set up a national license for interstate drivers within 18 months of passage of the measure. It also calls on states to reduce to 0.04 percent from 0.1 percent the blood alcohol content levels needed to establish that a driver

is intoxicated. Would you support such legislation? Why, or why not?

ANSWER: The Department is reviewing Senator Danforth's proposal in S. 1904. It would be premature to comment on such an important issue without giving this proposal our full attention and consideration. We are in the process of formulating a position and as soon as one is developed we will so advise.

The Department does not support a federally issued driver's license because it would add another layer of responsibility to administer. Any national license concept should leave licensing in the hands of the States. However, a common classification system would be beneficial. This would be a commercial driver's license, classified by type of vehicle, and issued by State agencies.

Uniform standards, issued by the Federal Government, for testing a driver's knowledge of traffic laws and rules of the road, and knowledge of the vehicle and vehicle inspection procedures would ensure that drivers are tested in a similar manner.

We would support a requirement that information about traffic violations be forwarded from the State in which a violation occurred to the State that issued the license.

SAFETY CONSTRUCTION PROGRAM EFFECTIVENESS

SENATOR ANDREWS: The Administration's reauthorizing legislation continues its emphasis on highway safety by retaining the Hazard Elimination and Rail-Highway Grade Crossings Programs as separate categories. However, the Inspector General found last year that about $9.9 million in rail-highway crossing funds had been obligated to treat rail crossings with negligible accident probability and an additional $4 million was obligated on inactive rail projects. He recommended that the effectiveness of the program could be enhanced significantly if State highway agencies (I) allocated Federal-aid apportionments to the safety programs with the most deserving projects, (II) established more effective methods for selecting locations for treatment, and (III) initiated effective measures to acquire funding for safety projects at locations off the State highway system. What actions has FHWA taken to assist in implementing these recommendations?

ANSWER: The Federal Highway Administration (FHWA) has made reviews of the Highway Safety Improvement Program in 38 States, the District of Columbia and Puerto Rico. The Office of Inspector General (OIG) has made reviews in an additional 5 States. We expect FHWA division offices to make reviews in the remaining 7 States during this fiscal year.

Many of the FHWA review findings paralleled those at the OIG. As a result of the findings and recommendations from the FHWA reviews, a number of States have improved their project selection and implementation procedures and FHWA is continuing to work with the remaining States to achieve more effective, efficient utilization of Rail-Highway Crossings and Hazard Elimination Program funds. Where appropriate the recommendations have included the need to gather data and identify locations off the State highway system for inclusion in the State's priority ranking systems for safety improvements.

Along with retaining these two safety programs as separate categories, the Administration's proposal also retains provisions permitting States to transfer up to 40 percent of their apportioned funds from one category to another. If applied properly, this should provide sufficient flexibility for States to implement the most deserving projects with available funding.

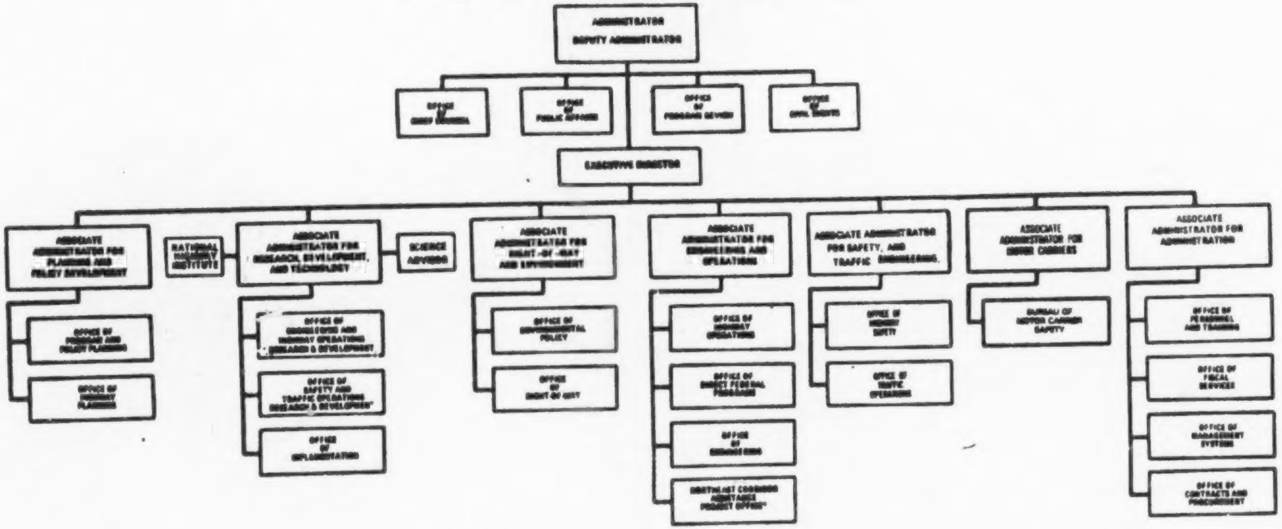
FHWA REORGANIZATION

SENATOR ANDREWS: The Committee understands that FHWA has recently undertaken a management reorganization. Provide for the record charts depicting your previous organization and the reorganization. Also include a description in terms of number of personnel and associated dollars for FY 1986 and 1987, for each office depicted.

ANSWER: Organization charts depicting the Washington Headquarters organization before and after the recent reorganization which was effective October 1, 1985, are attached. The number of personnel and estimated associated cost for FY 1986 and FY 1987 for each major organization element are also attached.

BEFORE REORGANIZATION

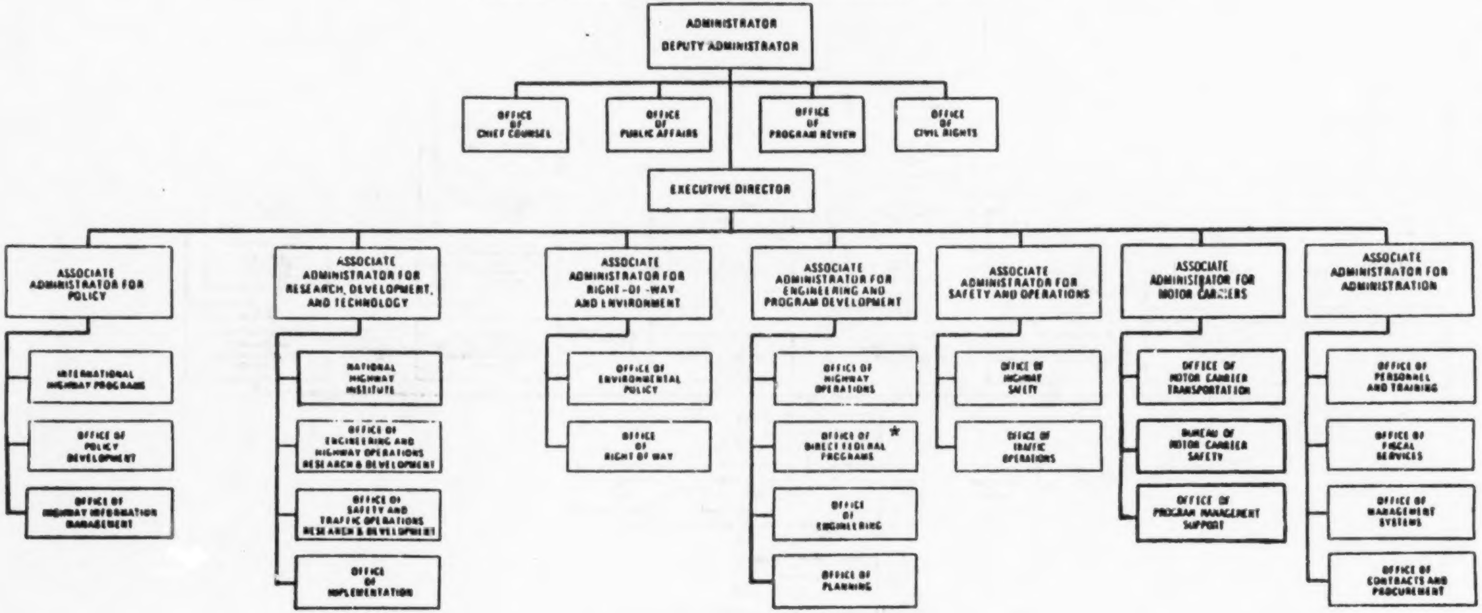
FEDERAL HIGHWAY ADMINISTRATION


ADMINISTRATOR
DEPUTY ADMINISTRATOR
OFFICE OF CHIEF COUNSEL
OFFICE OF PUBLIC AFFAIRS
OFFICE OF PROGRAM REVIEW
OFFICE OF CIVIL RIGHTS
EXECUTIVE DIRECTOR
ASSOCIATE ADMINISTRATOR FOR PLANNING AND POLICY DEVELOPMENT
OFFICE OF PROGRAM AND POLICY PLANNING
OFFICE OF HIGHWAY PLANNING
NATIONAL HIGHWAY INSTITUTE
ASSOCIATE ADMINISTRATOR FOR RESEARCH, DEVELOPMENT, AND TECHNOLOGY
SCIENCE ADVISOR
OFFICE OF ENGINEERING AND HIGHWAY OPERATIONS RESEARCH & DEVELOPMENT
OFFICE OF SAFETY AND TRAFFIC OPERATIONS RESEARCH & DEVELOPMENT*
OFFICE OF IMPLEMENTATION
ASSOCIATE ADMINISTRATOR FOR RIGHT-OF-WAY AND ENVIRONMENT
OFFICE OF ENVIRONMENTAL POLICY
OFFICE OF RIGHT-OF-WAY
ASSOCIATE ADMINISTRATOR FOR ENGINEERING AND OPERATIONS
OFFICE OF HIGHWAY OPERATIONS
OFFICE OF DIRECT FEDERAL PROGRAMS
OFFICE OF ENGINEERING
NORTHEAST CORRIDOR ASSISTANCE PROJECT OFFICE*
ASSOCIATE ADMINISTRATOR FOR SAFETY, AND TRAFFIC ENGINEERING
OFFICE OF HIGHWAY SAFETY
OFFICE OF TRAFFIC OPERATIONS
ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS
BUREAU OF MOTOR CARRIER SAFETY
ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION
OFFICE OF PERSONNEL AND TRAINING
OFFICE OF FISCAL SERVICES
OFFICE OF MANAGEMENT SYSTEMS
OFFICE OF CONTRACTS AND PROCUREMENT

*Provides institutional, technical and professional support to FHA.

CURRENT

FEDERAL HIGHWAY ADMINISTRATION


ADMINISTRATOR
DEPUTY ADMINISTRATOR
OFFICE OF CHIEF COUNSEL
OFFICE OF PUBLIC AFFAIRS
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EXECUTIVE DIRECTOR
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OFFICE OF ENVIRONMENTAL POLICY
OFFICE OF RIGHT OF WAY
ASSOCIATE ADMINISTRATOR FOR ENGINEERING AND PROGRAM DEVELOPMENT
OFFICE OF HIGHWAY OPERATIONS
OFFICE OF DIRECT FEDERAL PROGRAMS *
OFFICE OF ENGINEERING
OFFICE OF PLANNING
ASSOCIATE ADMINISTRATOR FOR SAFETY AND OPERATIONS
OFFICE OF HIGHWAY SAFETY
OFFICE OF TRAFFIC OPERATIONS
ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS
OFFICE OF MOTOR CARRIER TRANSPORTATION
BUREAU OF MOTOR CARRIER SAFETY
OFFICE OF PROGRAM MANAGEMENT SUPPORT
ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION
OFFICE OF PERSONNEL AND TRAINING
OFFICE OF FISCAL SERVICES
OFFICE OF MANAGEMENT SYSTEMS
OFFICE OF CONTRACTS AND PROCUREMENT

* A proposal to establish a Federal Lands Highway Office reporting directly to the Executive Director is pending approval by the Secretary.

	Estimated Number of Personnel		Estimated** Associated Costs (Dollars in thousands)	
	FY 1986	FY 1987	FY 1986	FY 1987
Office of the Administrator	16	16	$ 846	$ 872
Office of Chief Counsel	40	40	$ 1,961	$ 2,017
Office of Public Affairs	4	4	$ 145	$ 149
Office of Program Reveiw	5	5	$ 206	$ 213
Office of Civil Rights	17	17	$ 890	$ 916
Associate Administrator for Policy	101	101	$13,953	$13,083
Associate Administrator for Research, Development and Technology	158	*	$34,386	$23,416
Associate Administrator for Right-of-Way and Environment	66	66	$ 3,255	$ 3,338
Associate Administrator for Engineering and Program Development	215	215	$10,911	$11,116
Associate Administrator for Safety and Operations	67	67	$ 3,703	$ 3,467
Associate Administrator for Motor Carriers	55	55	$ 393	$ 412
Associate Administrator for Administration	260	252	$39,551	$51,112

*Note: Number of personnel for FY 1987 will be dependent upon the outcome of a review to determine the feasibility of privatizing certain research and development functions.

**Note: Associated costs represent General Operating Expenses including salaries, fringe benefits, travel, contract funds, etc.

OFFICE OF PROGRAM REVIEW

SENATOR ANDREWS: What is the function of the Office of Program Review? How does its activities and responsibilities differ from those of the Office of Inspector General?

ANSWER: The function of the Office of Program Review is to accomplish reviews independent of the program offices to determine the effectiveness of the Federal Highway Administration's programs and operations and develop recommendations for desirable policy or procedural revisions for the Administrator's consideration.

Activities differ from these of the Office of Inspector General in that the Office of Program Review has no responsibility to audit or verify the accuracy of program expenditures or conduct investigations of fraud or abuse.

NATIONAL GOVERNORS' ASSOCIATION HIGHWAY PROPOSAL

SENATOR ANDREWS: The National Governors' Association (NGA) last week narrowly defeated a proposal to cancel the 9 cents per gallon Federal gasoline tax and allow the States to impose their own taxes to build and maintain highways. Are you familiar with this proposal?

ANSWER: Yes, we reviewed a draft of their proposal.

SENATOR ANDREWS: Please provide a brief summary of this proposal.

ANSWER:

1) Under the NGA proposal the 9-cent Federal motor fuel tax would have been eliminated to allow States to assume this tax base beginning in FY 1988 and then carry out the bulk of the highway program without Federal assistance.

2) Remaining Federal revenues (presumably the balance of the 15-cent diesel tax, heavy vehicle use tax, tire, and truck and trailer sales tax) would have been used to finance a core Federal program consisting of:

   a. The Interstate completion program including the 1/2 percent minimum and highway substitution projects.

   b. Discretionary program for major bridges important to Interstate commerce.

   c. Hold harmless grants to ensure each State a level of support equivalent to its FY 1986 obligation authority, adjusted for all subsequently enacted budget reductions.

   d. Programs for public lands highways, emergency relief, research and development, and Section 402 safety grants.

3) The proposal indicated States should be unconstrained by Federal law from adopting any financing measures that enable them to carry out their responsibilities in constructing and rehabilitating the Nation's highways.

4) Federal role in the provision of mass transportation would have been continued under the NGA proposal.

5) The bulk of Federal transit funds would have been distributed by formula with a discretionary program to assist with extraordinary needs.

7) The proposal indicated the Federal Government has a responsibility to encourage and support intercity public transportation.

SENATOR ANDREWS: Is such a proposal a good idea in light of the Administration's attempt to extract the Federal government from those programs which are not truly a Federal responsibility?

ANSWER: Certain aspects of the NGA proposal (shifting authority and responsibility for decisions more to State and local governments for lower order highway systems) are similar to objectives of our legislative proposal. We believe that the Interstate/primary systems serve national defense and interstate commerce and, as such, should retain a strong Federal role.

FRONT BRAKES FOR TRUCKS

SENATOR ANDREWS: Since 1952, large trucks have been legally operating over the highways without front-axle brakes under a rule which is the responsibility of FHWA. This rule apparently was issued at a time when, because of the primitive state of heavy truck brakes, it was considered safer to decouple front brakes to avoid front-wheel lock on slippery surfaces during panic stops. However, recent studies have indicated that allowing big rigs to operate without front brakes increases their stopping distances by as much as 66 percent. The National Highway Traffic Safety Administration (NHTSA) has, on the other hand, required rigs built since 1980 to have front brakes when they leave the factory. Secretary Dole stated before the House Transportation Appropriations Subcommittee that the Department is drafting a notice of proposed rulemaking which would eliminate the 1952 provision in the regulations and make it consistent with what NHTSA is doing. What is the status of their rulemaking?

ANSWER: The Bureau of Motor Carrier Safety anticipates that a Notice of Proposed Rulemaking encompassing front wheel brakes on three axle tractors will be published in the Federal Register by April 30, 1986.

SENATOR ANDREWS: When could it be expected that a final rule will be issued?

ANSWER: After evaluation of the docket comments, it is anticipated that it will be published late in 1986.

SENATOR ANDREWS: Why has it taken so long for a rulemaking action in this area to be initiated?

ANSWER: Prior to 1985, there was mixed evidence on the merits of mandatory front wheel brakes. The arguments centered on reduced stopping distance versus direction control and stability of the vehicle. However, research was completed in the spring of 1985 which presented a very strong case for the elimination of the exception in the Federal Motor Carrier Safety Regulations which allows the removal of front wheel brakes on three-axle tractors. The FHWA is proposing to eliminate this exception as part of its reissuance of Part 393 of the Federal Motor Carrier Safety Regulations mandated by the Motor Carrier Safety Act of 1984.

SENATOR ANDREWS: What led the Administration to propose a block grant program for certain Federal highway and transit programs rather than simply returning these responsibilities and the accompanying revenue base to the States?

ANSWER: We do not support a tax turnback. The turnback proposal has been raised before and we have analyzed the impact on the States. A major problem with the proposal is that many States cannot generate as much revenue from raising their motor fuel taxes 3-cents as they receive from the Federal programs, if they are able to raise those taxes at all.

We believe that maintaining some degree of Federal financial assistance for improving lower order roads is desirable while at the same time, providing the States with maximum flexibility for directing those funds to the areas where they are most needed. That is why we propose to establish the block grant.

FULL-TIME EQUIVALENT (FTE)

SENATOR ANDREWS: The number of Full-Time Equivalents (FTE) for Motor Carrier Safety goes from 248 for FY 1985 to 305 for FY 1986 to 401 for FY 1987. The number of FTE's under the General Operating Expenses drops from 2,774 in FY 1985 to 2,591 in FY 1987. The Committee assumes the Motor Carrier Safety positions is for the build-up (doubling) of inspectors. Where does the decrease in personnel occur? What offices and activities will loose the positions. Please list the office and the number. Will any of these positions be reassigned to Motor Carrier Safety functions? If so, how many? How will the Department get down to this level?

ANSWER: The FY 1987 Congressional Budget reflects two different increases associated with the Bureau of Motor Carrier Safety. A relatively small increase of 6 full-time equivalents in FY 1986 and 6 full-time equivalents in FY 1987 associated with increased staffing for hazardous materials enforcement, approved by the Senate Report 99-152 and the House Report 99-256 both accompanying the FY 1986 Appropriations Act. The FY 1987 full-time equivalents for this increase were offset by a corresponding decrease in FHWA's General Operating Expenses account. A much larger increase for a doubling of the number of safety specialists, beginning this year (Spring 1986) is also included in this Budget. The increases in FY 1986 and FY 1987 for Bureau of Motor Carrier Safety are to be offset by the following decreases within the Department of Transportation:

Administration	Account	1986	1987
Federal Highway Admin.	General Operating Exp.		-16
U.S. Coast Guard	Operating Expenses		-20
RSPA	TCS, WCF		-15
Federal Aviation Admin.	Operation, Direct	-17	-31
	Operations, Reim.	-9	-17
	Metro. Washington Airport		-17
	Totals	-26	-116

34 additional full-time equivalents to bring the total to 150 will be required in the FY 1988 process, the sources of personnel will be determined at that time. With respect to reassignment of Departmental personnel, the issue of offsets does not involve actual people but the redistribution of full-time equivalents within a given total.

RAIL-HIGHWAY CROSSING DEMONSTRATION PROJECTS

SENATOR ANDREWS: Please update the table contained on page 358 of Senate Hearings, 99-336, Part I.

ANSWER: The updated table follows:

ALLOCATIONS TO RAIL-HIGHWAY CROSSING DEMONSTRATION
PROJECTS BY FISCAL YEAR
(in thousands of dollars)

Project	FY 74-79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86	Total
Wheeling, WV	$ 600	$ ---	$ ---	$ ---	$ ---	$ ---	$ ---	$ ---	$ 600
Augusta, GA	981	---	251	---	---	---	4,840	957	7,029
Anoka, MN	3,515	---	(600)	---	---	---	---	---	2,915
Blue Island	230	---	---	---	---	---	---	---	230
Carbondale, IL	7,286	8,718	(3,670)	8,970	---	---	500	2,871	24,675
Dolton, IL	210	---	375	---	---	---	---	---	585
E. St. Louis, IL	3,301	1,600	1,200	---	---	2,560	---	---	8,661
Springfield, IL	3,838	918	244	119	---	---	2,875	---	7,994
Hammond, IN	1,400	---	12,400	570	---	---	---	---	14,370
Lafayette, IN	1,929	---	4,071	---	---	1,800	7,000	5,264	20,064
New Albany, IN	2,575	---	---	---	---	(249)	---	---	2,326
Terre Haute, IN	400	---	6,600	---	---	---	---	---	7,000
Metairie, LA	252	---	---	950	---	500	---	---	1,702
Pine Bluff, AR	255	---	---	300	---	200	5,900	957	7,612
Brownsville, TX	1,210	300	---	---	---	2,660	1,500	2,392	8,062
Greenville, TX	353	9,147	---	---	---	---	---	---	9,500
Sherman, TX	---	---	---	---	---	---	---	---	---
Lincoln, NB	5,100	---	---	250	---	5,429	1,800	2,871	15,450
Elko, NV	17,816	17,525	194	4,895	---	2,100	---	---	42,530
TOTALS:	$51,251	$38,208	$21,065	$16,054	$ ---	$15,000	$24,415	$15,312	$181,305

( ) - Denotes deallocation of funds

NOTE: $5.225 million not shown above reserved for Springfield, Illinois.

SENATOR ANDREWS: Please provide for the record the table contained on pages 359 and 360 of Senate Hearings, 99-336, Part I.

ANSWER: The requested table follows:

RAIL-HIGHWAY CROSSING DEMONSTRATION PROJECTS
(dollars in thousands)

Project	Description	Total Estimated Cost	Demonstration Funds Allocated
Wheeling, WV	Rail relocation in downtown	$ 40,000	$ 600 (a)
Augusta, GA	Rail relocations involving three railroads	132,700	7,029
Anoka, MN	Grade separation	3,100	2,915
Blue Island, IL	Grade separation	5,900	230 (a)
Carbondale, IL	Depress rail line in downtown	76,200	24,675
Dolton, IL	Grade separation	9,400	585 (a)
E. St. Louis, IL	Seven grade separations and minor rail relocation	28,700	8,661
Springfield, IL	Rail relocation to corridor east of city	238,800	7,994
Hammond, IN	Rail relocation within downtown area	64,600	14,370
Lafayette, IN	Rail relocation within downtown area	94,200	20,064
New Albany, IN	Minor rail relocation	2,400	2,326
Terre Haute, IN	Grade separation	7,400	7,000
Metairie, LA	Rail consolidation and grade separations	19,000	1,702
Pine Bluff, AR	Five grade separations and minor rail relocation	19,900	7,612

Project	Description	Total Estimated Cost	Demonstration Funds Allocated
Brownsville, TX	Rail relocation to loop around city	$ 43,300	$ 8,062
Greenville, TX	Grade separation and minor rail relocation	13,800	9,500
Sherman, TX	-------------------WITHDREW FROM PROGRAM------------------		
Lincoln, NB	Three grade separations and minor rail relocations	29,000	15,450
Elko, NV	Rail relocation to loop around downtown	44,800	42,530
		$873,200	$ 181,305

(a) Project not under construction by September 30, 1985. In accordance with Section 163(p) of the Federal-Aid Highway Act of 1973, as amended, no further demonstration funds will be provided to the project.

NOTE: $5.225 million not shown above reserved for Springfield, Illinois.

BALTIMORE-WASHINGTON PARKWAY

SENATOR ANDREWS: What is the status of the funding provided in Fiscal Year 1986 for the Baltimore-Washington Parkway? Please elaborate.

ANSWER: The Fiscal Year 1986 Appropriations Act (P.L. 99-190) appropriated $3,000,000 to carry out the provisions of the Federal-Aid Highway Act of 1970 for the Baltimore-Washington Parkway. The estimated needed improvements and repair costs for this 40-year old facility is approximately $100,000,000. After the required 4.3% reductions for the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), about $2,200,000 of the remaining $2,871,000 will be used to begin preliminary design and right-of-way planning for the 18-mile Parkway, and final plan preparation for the first project starting at the beginning of the Parkway near the boundary of Washington, D.C., and Maryland, and proceeding northerly approximately 4 miles. The balance of the remaining funds or approximately $670,000 will be used for emergency roadway safety improvements and engineering studies for future work. The final design and contract plans for the first 4-mile section will be completed in 1987.

AIRPORT-HIGHWAY DEMONSTRATION PROJECT

SENATOR ANDREWS: What is the status of the Shawnee, Oklahoma, Airport-Highway Demonstration Project? Are other highway funds being used for this project? Could they be used? Please explain.

ANSWER: This project developed as a result of expansion of the Shawnee Airport under a Federal Aviation Administration funded grant. The highway work and the rest of the runway extension is under design by a consultant selected by the city of Shawnee. The total cost of the highway tunnel is estimated to be $3.5 million including some runway work.

The highway is on the Federal-aid urban system so technically eligible for Federal-aid urban system funding. However, the State is not in favor of the project because of the high cost and marginal benefit to highway traffic (primary benefit is to the airport).

RAIL LINE CONSOLIDATION

SENATOR ANDREWS: What is the status of the Orange, Texas, rail consolidation project? What is the estimated total project cost? Has the State of Texas contributed funds for this activity? How much?

ANSWER: A preliminary feasibility study has been completed for the project. The preliminary cost estimate to implement the project is $4 million in present day dollars. The State has not contributed funds to the project to date, and it is reported the State has no plans to make future contributions.

Questions Submitted by Senator D'Amato

SENATOR D'AMATO: I understand that the Administration is proposing to fund highway and safety programs at the level of anticipated highway user revenues to the Highway Account of the trust fund without considering the revenues from the interest. This interest amounts to over $1 billion annually. Since these funds can only be used for highway purposes, why aren't the funds being put to use to reconstruct our decaying highways?

ANSWER: The proposal to set the FY 1987 Federal-aid highway program at a level equal to the highway receipts not including interest is based on a deficit neutral policy. In other words, it is a funding level that will neither increase nor decrease the total Federal budget deficit. This is consistent with the overall effort to reduce the Federal deficit. The interest that is accruing on the balance will be retained in the Highway Trust Fund and will be used for highways when the deficit situation is resolved.

SENATOR D'AMATO: As of September 30, 1986, the cost to complete highway and transit substitute projects will be about $5.7 billion. At the $500-billion-per-year rate of funding proposed by the Administration, 12 years will be needed to discharge this obligation to 32 urbanized areas in 21 States -- until 1998. This is a major commitment by the Federal Government. Shouldn't this obligation be discharged before inflation erodes away much of the benefit which might be realized by construction of needed transit and highway substitute projects?

ANSWER: The reduction in the highway program necessary to achieve deficit reduction goals was taken largely from the Interstate construction and Interstate substitute programs. These reductions were made in order to maintain a high level of funding for those programs (Interstate 4R, primary, and bridge) that are important to preserving our existing highway facilities.

Further, since most substitute projects address primarily local transportation needs, it would not seem appropriate to maintain higher funding levels for this program at the expense of programs of National interest that benefit all States.

SENATOR D'AMATO: Elimination of the exemption from motor fuel taxes for private and public bus operations has been proposed. Any resulting increased revenues to the Federal Government will have to be replaced by State and local subsidies to the transit operators. Is it the Administration's position that this additional burden be placed on State and local governments?

ANSWER: Elimination of these exemptions is being proposed because we believe that all highway users should pay their fair share of the highway use taxes. Even with the elimination of these exemptions, buses on the average will fall short of meeting their cost responsibility as determined by the Highway Cost Allocation Study completed in 1982. Elimination of these exemptions will also provide a level playing field between public and private bus companies. To the extent that cost savings due to increased competition by private providers and other possible cost saving measures do not off-set the increased operating costs as a result of these additional user taxes, State and local officials will have to decide between an increase in subsidies and an increase in fares. Currently, States and cities spend less than one percent of their combined budgets on transit. Considering their annual budget surpluses, they have a financial cushion and the flexibility to assume a greater role in this area if transit is a priority concern.

QUESTIONS SUBMITTED BY SENATOR CHILES

OVERALL FUNDING LEVELS

SENATOR CHILES: The highway legislation submitted by the Department includes an obligational limit of $12.4 billion which is $200 million more than last year's level after the Gramm-Rudman-Hollings reductions. It is, however, over $2 billion less than what was authorized for fiscal year 1986. Mr. Administrator, I'm sure you are well aware of the Joint Economic Committee study which suggest there is a $450 billion gap between projected infrastructure expenditures and the amount that we will need to spend between now and the year 2000. Over $260 billion of this gap exists in the highway and bridge categories and, historically, approximately 1/3 of infrastructure spending has been provided by the Federal government. The Joint Economic Committee study therefore suggests we should spend another $15 billion a year just on the bridge and highway categories each year and approximately $5 billion of this historically would be the federal share. Mr. Administrator, do you believe that we are spending enough on the important infrastructure needs of this country?

ANSWER: We believe that the Administration's proposed bill adequately addresses the Nation's critical highway and bridge infrastructure needs. Our major concern at this point is to maintain the physical integrity and safety of our highway systems and to provide the State transportation agencies the flexibility in the use of Federal-aid highway funds to target projects of specific State significance.

Proposed authorizations represent the historic Federal share to maintain the physical conditions on the Interstate and primary systems, the systems of major national significance, and to replace or rehabilitate structurally unsafe bridges on those systems. In addition, increased authority and responsibility for the secondary and urban systems, systems which are of essentially State and local interest, will be provided to the States through a block grant. Block grant funding will approximate that provided in fiscal year (FY) 1986. This realignment of program responsibility will ensure that Federal interest in highway infrastructure of primarily Federal significance will be retained and that State and local governments will assume greater responsibility and control over systems of lesser Federal interest.

The $2 billion reduction in total Federal authorizations proposed between FY 1986 and 1987 should not negatively impact overall highway performance. In States where the Interstate system is complete, or nearly complete, the combined Interstate/primary authorizations may be applied to pavement and capacity improvements on open-to-traffic segments. For States with uncompleted Interstate segments, the State has the option of selecting projects of either a completion or a rehabilitation nature, depending on the cost-effectiveness and State priority assigned to the project.

HIGHWAY TRUST FUND

SENATOR CHILES: Mr. Administrator, I understand that the balance in the Highway Trust Fund now is approximately $10.5 billion and by 1990 or the end of the four-year period authorized by your new highway legislation, the balance would be $14.5 billion. Also, the balance in the transit portion of the Highway Trust Fund now stands at roughly $3 billion and would, by your projections, total approximately $4 billion by 1990. In view of the interest of many of us to complete the Interstate system on time and to provide an adequate level of funding for important transportation and infrastructure needs, what is the purpose of permitting the trust funds balances to grow as opposed to spending these monies on the highway system?

ANSWER: The balance of the Highway Account of the Highway Trust Fund was $10.4 billion at the close of fiscal year (FY) 1985. As of December 31, 1985 it was $9.8 billion. This balance is estimated to increase to $12.8 billion at the end of FY 1990 under the Administration's proposed legislation. The balance in the Mass Transit Account was $2.5 billion at the end of FY 1985. As of December 31, 1985 it was $2.7 billion. Under the Administration's proposed legislation it is estimated to increase to $4.2 billion by the close of FY 1990.

The Administration proposed funding levels that would be deficit neutral. The level of highway authorizations for FY 1987-1990 would approximately equal the highway tax receipts in the highway account in those years.

POPULATION AND THE ALLOCATION OF HIGHWAY FUNDS

SENATOR CHILES: As you know, current law and the highway legislation you have proposed requires that the "Latest Federal Census" data be used in the allocation formulas. The Federal Highway Administration has interpreted this to mean the decennial census data.

Since 1980 when the last decennial census was taken, the Florida population has grown by 1.5 million. Had actual population figures been used in your allocation formulas since 1980, the Florida Department of Transporation estimates that it would have received an additional $25 million in Federal Highway funds and an additional $50 million between the 1980 and 1990 decennial census.

As you know, the Census Bureau does an annual population update that includes estimates by state, county and metropolitan area. Why doesn't the Federal Highway Administration use the "Last Federal Census" data as is required by law instead of decennial census data which is now 6 years out of date?

ANSWER: The Federal Highway Administration apportions funds in accordance with Title 23 U.S.C., which is supplemented by 23 CFR

Chapter 1, Section 1.2(b). This regulation defines the "Latest Available Federal Census" as the latest available Federal decennial census. The annual population updates are estimates which are supplied by the States to the Census Bureau. Certain data required for apportionment purposes, i.e., urban and rural area population and land/inland water area, is only available from the decennial census.

HIGHWAY AND TRANSIT BLOCK GRANT PROGRAM

SENATOR CHILES: The new block grant program would include $2.2 billion of highway money which would cover the existing urban, secondary and bridge programs and $1.2 billion of transit program to be distributed by Section 9 transit formulas. Highway funds, of course, under this proposal could be used for transit needs and transit needs could also be used for highway needs. While there obviously are additional highway funds being provided other than what's included in this block grant program, the transit program goes out entirely under the new block grant program. Based on priorities at the local level, do you feel that many of the transit dollars provided through this block grant program will, in the end, be used for highway needs? The fact that most jurisdictions place a higher priority on highway requirements, isn't it likely that the transit program already reduced by the Administration, will in fact be further reduced once the decisions are made at the local level?

ANSWER: Under the block grant program, all the funds from the Highway Account and the Mass Transit Account may be used for either highway or transit projects. In areas of 200,000 or more, local officials will make the decision on whether to use the funds for highway or transit projects. In the rest of the State, the State will make the decision in consultation with the appropriate local officials. A primary benefit from the combined block grant is to give the States and local officials the ability to use all of the funds for the highest priority highway or transit projects in a particular year.

EMPLOYMENT LEVELS

SENATOR CHILES: Actual Full-Time Equivalent employment at Federal Highways is estimated (page 10) to be at 3,215 employees or a reduction of 66 employees from the level existing after Gramm-Rudman 1986. In view of greater efficiencies that are supposed to exist under the block grant program, the reduced levels of Federal supervision and red tape, why are we seeing a less than 1 percent reduction in Federal Highway Administration employment?

ANSWER: Under the President's Budget, the total number of full-time equivalents would be reduced from 3,524 (adjusted for the Bureau of Motor Carrier Safety reprogramming) to 3,422 for a reduction of 102, or about 2.9 percent. It should first be pointed out that FHWA employment has been significantly reduced in recent years. For example, the number of full-time permanent employees at the end of FY 1980 was 4,075 versus 3,282 at the end of FY 1985, for a reductions of almost 20 percent. Second, while we have not done a detailed workload analysis of the possible impact of the block grant program, our experience with certification acceptance indicates that significant level of FHWA involvement would be required in the early years of a block grant program to help the States establish it and monitor the implementation of the block grants provisions. Finally, while funding was significantly increased by the 1982 Surface Transportation Assistance, FHWA has taken reductions to the point that staffing in this FY 1987 Budget is as low as it can be and still adequately administer the proposed program.

ABOLITION OF THE TURNER FAIRBANKS HIGHWAY STATION IN MCLEAN, VIRGINIA

SENATOR CHILES: Mr. Administrator, I understand that the OMB sliced 158 positions out of your budget with the assumption that the Turner Fairbanks Research Center in McLean, Virginia, would be privatized. Federal Highways now spends approximately $22 million for research projects which are managed through the Turner Fairbanks Center. What process will Federal Highways follow in privatizing the Turner Fairbanks Center? Will this be an A-76 process?

ANSWER: The OMB has recommended that the Department of Transportation make a good faith effort to privatize the operation of the Turner-Fairbank Highway Research Center (TFHRC). In response to this recommendation, the Federal Highway Administration is preparing a Statement of Work for a contract study to determine the feasibility of privatizing the operations. The planned study will review all current functions and responsibilities of the Offices of Research, Development and Technology as well as legislative mandates. Following the functional analysis, the contractor will develop optional approaches which could be considered, including operational management of the program and the TFHRC activities by a contractor, university or association. Estimates of conversion and operating costs for each option are required. A major consideration in the decision to privatize these functions will be the matter of overall cost to the Government. Is it in the best interest of the Government cost-wise.

The feasibility study will not be a strict A-76 assessment since OMB Circular No. A-76 specifically excludes application of that document to the conduct of research and development. However, full consideration will be given to identification of additional, severable in-house commercial activities in support of the research and development program. Many activities in this category have already been contracted to the private sector, including facility security and maintenance, laboratory support and shops and automated data processing support.

SECRETARY DOLE'S INITIATIVE TO HIRE AN ADDITIONAL 150 BUREAU OF MOTOR CARRIERS SAFETY SPECIALISTS

SENATOR CHILES: Mr. Administrator, based on information included in the annual report of accidents of motor carriers of property, I noticed that there is roughly a 17% increase in accidents between 1980 and 1984 for truck drivers, and increases also in the number of fatalities and the number of injuries. I understand secretary Dole's initiative to hire an additional 150 bureau of motor carrier safety specialists will address this problem. Your budget justification material noted that this hiring initiative will be accomplished by a reprogramming proposal. When do you expect that reprogramming proposal to be up here? Safety being Secretary Dole's highest priority, I am surprised that a month has gone by since the announcement was made and we still do not have the proposed reprogramming.

ANSWER: The reprogramming proposal is in the Secretary's office and will be delivered within the next couple of weeks.

AMERICAN HIGHWAYS

SENATOR CHILES: In the last published report regarding the pavement conditions of the Interstate and other arterials highways, it was noted that the total mileage in deteriorating condition on American highways had increased from 19.1% to 28% in the 1975 to 1983 time period? Mr. Administrator, what is the current condition of our highways in this country since the Surface Transportation Assistance Act passed in 1982? What percentage of our mileage in the Federal-aid systems is now deteriorated condition.

ANSWER: Between 1978 and 1983, the percentage of Interstate and other arterial mileage in poor condition increased in both rural and urban areas. Since passage of the Surface Transportation Assistance Act of 1982, the States have reported an overall improvement in highway conditions. From 1983 to 1984 the amount of pavement in poor condition in the Interstate and arterial classes declined significantly. These improvements appear to be a direct result of the increased capital expenditures from all units of government.

Percent of Mileage in Poor Condition

		1978	1983	1984
Interstate	Rural	10.0%	13.1%	12.3%
	Urban	10.9%	17.5%	15.2%
Other Arterials	Rural	10.3%	10.6%	10.3%
	Urban	9.8%	10.1%	9.5%

THE ADMINISTRATION'S PROPOSED HIGHWAY BILL--DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

SENATOR CHILES: Mr. Administrator, I noticed that your highway legislation did not include a continuation of the Disadvantaged Business Enterprise program. This program initiated in the 1982 Surface Transportation Assistance Act required that 10 percent of all Federal-aid highway dollars be set aside for disadvantaged businesses. Nationwide we have met this goal and the State of Florida has exceeded the 10 percent goal in most years since the requirement was put into place. When do you expect to have an administration decision on this program?

ANSWER: The Department has not taken a position on the extension of the DBE program provision. The issue is still under consideration and the Department intends to work closely with the Congress to address the provision during the development of the legislation.

FRONT WHEEL BRAKES ON TRUCKS

SENATOR CHILES: I understand that we have a conflict down at the Department of Transportation with regard to the requirements for front axle brakes on trucks. Since 1952, a rule has been in effect not requiring front axle brakes on trucks. This rule is carried on the books of the Federal Highway Administration. Since 1980, however, the National Highway Traffic Safety Administration has required that all trucks be built equipped with brakes on the front

axle. Allowing big trucks to run without front brakes increases their stopping distance by as much as 66%. Mr. Administrator, what is the Department doing to resolve the conflict between your rule and the National Highway Traffic Safety Administration rule with regard to front axle brakes on trucks?

ANSWER: Current FHWA regulations require brakes to be acting on all wheels of a commercial motor vehicle with one exception. This exception allows trucks and truck-tractors having three or more axles to operate without brakes on the front axle. The FHWA expects to propose eliminating this exception as part of its upgrading of Part 393 of the Federal Motor Carrier Safety Regulations as directed by the Motor Carrier Safety Act of 1984.

BRIDGE REPLACEMENT PROGRAM

SENATOR CHILES: Mr. Administrator, in your last report to Congress on the bridge replacement and rehabilitation program dated April 1985, I noted that there are over 260,000 deficient bridges in the U. S. as of December 31, 1984. I also noted a statement in the report which read as follows "It is not economically feasible or practicable to improve all bridges classified as deficient nor is it necessary to do so from a safety standpoint." I also noted that each year newly deficient bridges are being added to the eligible list at about the same rate as bridges are being removed from the list through repair and rehabilitation. Mr. Administrator, over the years we've heard a great deal of talk about the large number of deficient bridges in this country and many have reported this situation as a matter of great concern and some urgency. I wonder if you could put this situation in perspective for us? To what extent are we facing a crisis in the need to repair and replace bridges, or in the words of your report, is it unnecessary to replace and repair many of the bridges classified as deficient? Additionally Mr. Administrator, does this suggest that your classification system for deficient bridges needs to be amended so as to more truly reflect the nature and scope of the problem?

ANSWER: The large number of deficient bridges remains a matter of great concern, in particular the number of structurally deficient bridges which continue to increase on the Primary and Urban systems. The Primary system, along with the Interstate system, has the most Federal interest because it carries a higher volume of traffic, serves long distance and interstate traffic, and is vital to the national defense. Overall, in 1985, highway agencies were able to improve or replace 16,550 structures, about 6,000 more than in 1984, to the point that they are no longer structurally deficient. The number of deficient bridges improved reflects the beneficial effects of the increased funding authorized by the 1982 act and the high priority State and local governments have placed on their bridge programs.

One of the main objectives of the Highway Bridge Replacement and Rehabilitation Program (HBRRP) is to remove from service highway bridges most in danger of failure. The fact that a bridge is "deficient," either structurally or functionally, does not imply that it is unsafe. With proper load posting and enforcement, many deficient bridges can continue to serve most traffic. Functionally obsolete bridges often have geometric deficiencies which can be minimized by use of traffic control measures such as roadway striping, signs, signals, and crash cushions.

In general, the number of bridges eligible for the HBRRP is too long. The FHWA is currently reviewing the definition of "deficiency" used to establish program eligibility. By changing the eligibility criteria, the bulk of HBRRP funds could be directed toward improvement of bridges with structural inadequacies. Nearly all of these have geometric deficiencies as well. A change in definition would mean bridges with only geometric deficiencies on low-volume bridges would have a lesser role in the Federal bridge program. The major effect of this change would be on lower volume, functionally obsolete bridges. These bridges would be reclassified as marginally acceptable, a more realistic status in the absence of structural deficiencies. If traffic conditions changed or if a bridge became structurally deficient, it would then be added to the eligibility list.

SENATOR CHILES: The FHWA recently allocated to the States several hundred million dollars in Interstate Discretionary funds but apparently fell short of allocating all of the funds available. Could you provide to the Committee a summary of how those funds were allocated in the first round? How do you explain why the States could not use all of the Interstate Discretionary funds available? When do you plan to ask the States again to apply for Interstate Discretionary funding? Can we expect that some category two Interstate Construction projects will be approved for discretionary funding this fiscal year?

ANSWER: A summary by State of the allocations made in the first round is as follows:

Arizona	$61,700,000
Georgia	22,228,100
Illinois	30,541,914
Kansas	5,257,139
Minnesota	15,656,319
Missouri	15,457,068
Oklahoma	15,821,100
Total	$166,821,100

The States could not use all of the Interstate Discretionary funds available because many States have not obligated all of the Interstate Construction apportionments made available to them and thus, were not eligible to apply as they did not meet the requirements of U.S.C. Section 118. We believe this is due to a number of factors including the priorities of the various States as to how their obligation limitation is utilized and the late release of the last half of fiscal year (FY) 1985 and the FY 1986 Interstate Construction funds. These funds could not be apportioned until March 13, 1985, when the Interstate Cost Estimate was approved.

Our procedures for requesting FY 1986 Interstate Discretionary funds provided that after the initial request period, States would automatically submit applications for Interstate Discretionary funds when they met the requirements under the law and had a project ready to be authorized.

Our priority is to fund category one projects of high cost which directly contribute to the completion of an Interstate segment which is not open to traffic. We expect to allocate funds only to projects which are catetory one.

Questions Submitted by Senator Hatfield

SENATOR HATFIELD: In the Administration's Surface Transportation Reauthorization Act of 1986, it is proposed to reduce the sums available for Interstate substitution projects to $500 million, a cut of $925 million from FY 86, and to fund all such projects out of the Highway Trust Fund. In addition, the State of New York withdrew the Westway in 1985, which represents an additional $1.725 billion to be funded out of that sum of money and there is a possibility that the State of Hawaii will withdraw the H-3 highway project which totals $740 million. Whether or not H-3 is withdrawn, the withdrawal of the Westway will create enormous pressure on the sums available for Interstate substitutions through the formula for that program. The combination of the Westway withdrawal on the formula and the fact that the Surface Transportation Authorization Act precludes holding the funds for more than two years will make it very difficult, if not impossible, for these States to let viable contracts to utilize the funds. Is this an accurate characterization of the situation affecting states such as Oregon, Arizona, Indiana, Minnesota, New Jersey and Virginia? If not, why not? Please provide a breakdown of formula funding for the program, including the Westway, based on FHWA's proposed legislation.

ANSWER: We agree that our proposed funding level of $500 million represents a substantial reduction from the $944 million originally authorized for FY 1986 (prior to Gramm, Rudman, Hollings reductions). We believe the situation you describe shows that all States eligible for substitution funds would receive smaller annual amounts because we are forced to reduce the overall program for balanced budget purposes. More recent withdrawals add to this problem but we have not tried to look at old and new withdrawals differently. Regarding the ability to let viable contracts, the median size Federal-aid highway contracts is about $500,000. Only one State would receive an apportionment less than this national median. Further, section 107(f) of the 1982 Surface Transportation Assistance Act (STAA) made the bond financing provisions of 23 U.S.C. 122 applicable to substitute highway projects. Section 113(c) of the 1982 STAA made the construction in advance of apportionments provisions of 23 U.S.C. 115 applicable to substitute highway projects. The following table provides a State by State breakdown of estimated apportionments under our proposed legislation:

Estimated Interstate Substitution Apportionments

State	Estimated State Apportionment
Arizona	$69,473
California	5,276,273
Colorado	2,632,652
Connecticut	42,846,410
Dist. of Columbia	6,172,106
Georgia	4,391,410
Illinois	51,413,497
Indiana	2,073,213
Iowa	12,238,175
Maryland	43,127,956
Massachusetts	6,267,174
Minnesota	1,605,186
Nebraska	903,146
New Jersey	14,315,045
New York	114,842,126*
Ohio	6,230,609
Oregon	5,254,334
Pennsylvania	4,574,232
Rhode Island	29,068,864
Tennessee	11,689,706
Virginia	654,507
	$365,646,094

* Includes apportionment related to the Westway withdrawal.

SENATOR HATFIELD: In the absence of any changes in the formula to assist these States, does FHWA believe that these States which withdrew Interstate projects at an early date will have sufficient funds to let contracts to pursue viable projects? On what substantiation is that belief based?

ANSWER: As indicated above, only one State would receive an apportionment smaller than the median size Federal-aid highway contract. The provisions of 23 USC Sections 115 and 122 are applicable to substitute projects. These provisions permit States to proceed with projects prior to apportionments and to be reimbursed by later apportionments. We would also expect that the appropriate distribution of discretionary funding could also aid in such situations.

SENATOR HATFIELD: Under the DOT proposal, when would the FHWA project that Oregon would be out of the program? Please provide a chart to the Committee on the time frame for when all of the States currently involved would exhaust their Interstate Transfer funds.

ANSWER: Under the funding level proposed for this program, we would expect all States to complete their substitution programs with funding for Fiscal Year 1998. Discretionary allocations could facilitate earlier completion in some States. The following table shows the yearly drawdowns in withdrawal values through FY 1998:

Interstate Substitute Project Completion Schedule
(Amounts in Million of dollars)

Fiscal Year	Beginning Withdrawal Value	Authorization*	Ending Withdrawal Value
1985	---	---	6,628.2**
1986	6,628.2	897.8	5,730.4
1987	5,730.4	487.5	5,242.9
1988	5,242.9	487.5	4,755.3
1989	4,755.3	487.5	4,267.8
1990	4,267.8	487.5	3,780.3
1991	3,780.3	487.5	3,292.8
1992	3,292.8	487.5	2,805.2
1993	2,805.2	487.5	2,317.7
1994	2,317.7	487.5	1,830.2
1995	1,830.2	487.5	1,342.6
1996	1,342.6	487.5	855.1
1997	855.1	487.5	367.1
1998	367.6	367.6	.0

* The authorization for FY 1986 is the funding actually being made available for Substitute projects after reductions for administration and Gramm, Rudman, Hollings. The authorization level for FY 1987 and beyond is our proposed authorization level less takedowns for Administration and SHRP.

** From Senate print 99-69 adjusted to reflect the withdrawal of Westway and lapsed FY 1984 funding.

SENATOR HATFIELD: In proposing combined highway/transit Interstate substitute projects, did the Department of Transportation or FHWA give any consideration to protecting those States which made early decisions to withdraw segments? What options were considered by FHWA and DOT?

ANSWER: In administering the Interstate Substitution program the Department has found that substitute project funding needs do not correspond directly with the length of time States have been involved in the program. For instance, at the end of FY 1985, four States could not obligate funds within the period of availability and the funds were reapportioned to other States. Connecticut, a State that entered the program December of 1975 returned $42.7 million to be reapportioned to other States. Oregon has participated in the substitution program since May of 1976 but has been carrying a large unobligated balance of FY 1983 funds which could have been expended any time from FY 1983 to the present. California has participated in the substitution program since 1980 and yet was unable to obligate FY 1983 and 1984 funds prior to lapse. Based on this and other experience, the Department does not consider the age of a withdrawal to be a critical factor in determining substitute project funding needs. In fact, the converse may be true. Withdrawal areas that have received substantial substitution funds have had the opportunity to satify many of their local transportation needs. The newer withdrawal areas have not had the benefits of this special funding category to resolve local transportation problems. Accordingly, the Department has not given serious consideration to providing a higher priority for funding older withdrawals.

SENATOR HATFIELD: Will the proposed legislation include any provision to protect those States who made early withdrawal decisions through a "hold harmless" clause or some other provision, such as amending the current formula?

ANSWER: The proposed legislation does not include any provision to protect those States that made early withdrawal decisions. The funds will be apportioned in the ratio that a State's remaining withdrawal value for substitute projects bears to the total remaining withdrawal value for substitute projects in all States. The Department of Transportation is committed to completing funding for the substitute program and we intend to seek additional authorizations for the program in our post-1990 legislative proposal.

OREGON GRADUATE CENTER

SENATOR HATFIELD: Does FHWA intend to honor the earmarking by the Conference Committee of available funds to OGC for the welding and joint research?

ANSWER: FHWA intends to honor the earmarking of funds by the Conference Committee for this special purpose.

SENATOR HATFIELD: If so, will FHWA provide the full $310,000 earmarked in the Conference Committee report? If not, please provide to the Committee the funding level to be made available and an explanation for the lower figure.

ANSWER: The earmarked funds of $310,000 will be reduced by 4.3 percent due to the G-R-H appropriation reductions.

SENATOR HATFIELD: Please provide an explanation to the Committee for why these funds have not yet been made available to OGC in the face of the Committee's earmark.

ANSWER: Funds are being made available to OGC as rapidly as contracting procedures can be completed. Documentation for the transfer of funds from FHWA to the OGC have been prepared, including a prospectus requesting a detailed proposal for the conduct of the work. Several informal meetings have been held between the OGC researchers and FHWA technical personnel.

SENATOR HATFIELD: When will FHWA make these funds available to OGC for this purpose? If it cannot be done within thirty days of the hearing, please explain to the Committee why this time frame cannot be met and provide a time certain for when this will be accomplished?

ANSWER: The proposed research is now in the process of going through our regular procurement approvals. We have prepared a Statement of Work (SOW) and as soon as the approvals have been obtained, we will submit the SOW to our Office of Contracts and Procurement. We anticipate that funds will be made available to the OGC by May 15, 1986.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

STATEMENT OF DIANE K. STEED, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATOR

ACCOMPANIED BY:

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OPENING REMARKS

Senator ANDREWS. It is good to have you back. Let me assure you that we have your statement. It will be made a part of the record. You can summarize it or proceed to the questions, whichever way you wish.

Before we proceed with Ms. Steed's statement, we have an opening statement from Senator Chiles that he would like to have inserted in the record.

[The statement follows:]

STATEMENT OF SENATOR CHILES

Ms. Steed, I am also pleased to welcome you before the committee this morning to justify your request for $83,930,000 and 514 full-time equivalent positions. We will also consider your request and hear your testimony in support of the $127.9 million of highway traffic safety grants.

I'm pleased, as I'm sure everyone else is, to see the continuing decline in highway traffic deaths as related to the total number of vehicle miles traveled. I'm disappointed, however, to see in a recent National Highway Traffic Safety Administration publication entitled "Traffic Safety Trends and Forecasts," that you project an increase in highway deaths up again to 50,000 lives lost per year by 1990. I will be interested to hear what you can tell us this morning about how we can reverse the projected trend of increasing highway deaths each year. I am pleased to see in your prepared statement, Ms. Steed, a status report of the National Driver Register Program, the State of Florida with tens of thousands of new residents coming into the State each month, is in great need of such a program to screen high-risk drivers from automatic issuance of Florida drivers licenses. I'm disappointed, however, that after 5 years, when the initial requirement was established for this program, we are just now approaching the pilot testing stage of this program. I will be interested to hear from you how the implementation of this program can be speeded up. We are, of course, aware of your continuing efforts to encourage States to pass 21 drinking age laws and mandatory seatbelt laws. We will be interested in your comments on these two initiatives. Ms. Steed, again I would like to welcome you to our committee and we look forward to hearing your testimony.

INTRODUCTION OF ASSOCIATES

Ms. STEED. Thank you very much, Mr. Chairman.

Since I am sure that out in the Midwestern part of this country they taught you to read just as well as they taught me to read, I will not read my prepared statement, and accept it as being entered into the record.

I would like, if I might, before I hit a few highway safety highlights from the last year, to introduce a few of my colleagues. On my far left is Erika Jones. She is chief counsel of the agency. Next to her is Mr. Jeffrey Miller, who is my Deputy Administrator. On my right is Mr. George Reagle, Associate Administrator for Traffic Safety Programs. To his right is Adele Spielberger, Associate Administrator for Plans and Programs.

FATALITY TRENDS

Very briefly, I think we have a lot to be proud of in highway safety over the last year or so. And I am pleased to report for about the second or third year in a row that highway fatalities are going down. In fact, our fatality rate has declined to an all-time low of about 2.5 fatalities per 100 million vehicle miles, and I might note that this occurred at a time when vehicle miles traveled did actually increase, so that I think we can be very, very proud that our highway safety measures are in fact having a positive effect.

HIGHWAY SAFETY ACCOMPLISHMENTS

Let me just hit two or three items that I think are outstanding accomplishments of our Nation in highway safety. In the anti-drunk driving area, we have seen a decline, an actual decline in alcohol fatalities. In particular, there has been a decline in the numbers of fatally injured drivers who were intoxicated at the time of the crash.

Between 1980 and 1984, we have seen a 24-percent decline, which shows, I think, that our various approaches to removing the drunk drivers from the roads are working. In the area of the age 21 minimum drinking age, I am very pleased to say that today we have 38 States that have 21 as the minimum drinking age. And in those States again we are seeing fatalities being reduced as a result of age 21. In those States that have raised their drinking age over the last several years, we see a 13-percent decline in the involvement of young people in fatal accidents.

Let me switch for just a moment to safety belts, and here too we are seeing considerable momentum and considerable action by the States.

We today have 19 States plus the District of Columbia with mandatory safety belt use laws. I believe that represents tremendous progress in our country. Those laws are in fact saving lives. To use New York as an example, in the first 9 months of their safety belt use law, New York experienced a 17-percent decline in fatalities. Other States experienced similar reductions, so we know that the safety belt use laws are working.

MOTOR VEHICLE SAFETY

We are also very pleased to see the progress being made by the manufacturers in the area of automatic crash protection. They tell us that consumer demand is pushing them toward newer technologies such as the airbag. I believe General Motors announced a few weeks ago that consumer demand was the reason they now plan to offer airbags, so we are extremely pleased to see this. We think that is a real step forward.

In the vehicle safety area, we continue our work in the frontal- and side-protection areas. Our development work on airbags is proceeding. We believe that we can field demonstration cars equipped with Breed retrofit airbags by mid-July of this year. In police fleets in several States, we have fielded about 550 retrofit airbag equipped cars. There have been 27 airbag deployments in those cars, and in all cases the airbag has performed as we expected it would. So, again, I think that is very good news.

INTERNATIONAL HARMONIZATION

We have made real strides in the harmonization of our regulations with those of other countries. For the first time, the United States is being taken as a serious player in harmonization. I know you had an interest in this area last year. We have made strides in lighting, controls and displays, and we have come a long way in the braking area, which is our primary focus of harmonization at the moment.

ENFORCEMENT ACTIVITY

In enforcement, we have maintained our strong enforcement record, while at the same time reducing the amount of time that it takes to conduct an investigation so that defective cars are removed from the road as quickly as possible.

In summary, we are very proud of the strides that this Nation has made, because we think the public is taking highway safety seriously, and that they are changing both their attitudes and their actions while they are driving on our Nation's roads.

PREPARED STATEMENT

That concludes my summary. We would be happy to try to answer any questions.

[The statement follows:]

STATEMENT OF DIANE K. STEED

I welcome this opportunity to appear again before you to present and explain our fiscal year 1987 budget request.

FATALITY TRENDS

I am pleased to report that preliminary 1985 data indicate that the fatality rate has declined to an all-time low of 2.50 fatalities per 100 million vehicle miles traveled. We estimate that the number of persons who died in traffic crashes decreased from 44,241 in 1984 to about 44,000 in 1985, in the face of a steady increase in the number of vehicle miles traveled. Many more would surely have died if safety efforts had not been stressed througout the Nation. The record of declining highway fatalities in five of the past six years is a record in which we can all take pride.

PROGRAM EMPHASIS

In line with Secretary Dole's priorities, and her balanced approach to highway safety, we in NHTSA are working to address safety problems by concentrating on solutions involving both the vehicle and the driver.

As in previous years, our fiscal year 1987 budget request builds on the progress we have made to date and provides a careful balance of highway safety and motor vehicle safety programs. It has been designed to yield the greatest reduction in fatalities and injuries in the most effective and efficient manner. Our resources will be directed at those activities with the most realistic prospect of success and with the maximum safety gains per dollar invested.

HIGHWAY SAFETY

Alcohol Programs

In the area of alcohol safety, we are seeing a promising trend which indicates that the combined efforts of federal, state and local governments, and the private sector on the drunk driving problem are paying off. In an October 1985 study, we found that the number of fatally-injured drivers who were intoxicated dropped from more than 14,000 in 1980 to 11,000 in 1984, a decline of 24 percent. The percentage of fatally-injured drivers who were intoxicated also declined from 50 percent to 43 percent over that same period, a 14 percent decrease. This decrease can be attributed to the effects of several factors working together: greater public awareness of the problem, tougher state laws, stricter enforcement and sentencing, a decline in the population of young drivers, and an increase in the minimum drinking age in many states. The effort to reduce drunk driving continues to move ahead on several fronts. An amendment to the Surface Transportation Assistance Act of 1982, was passed by Congress in 1984 to encourage states to raise the legal drinking age to 21 has generated new interest and action to reduce drinking by young drivers. I am pleased to report that since the legislation was enacted, 15 states have enacted age-21 laws. Currently, 38 states have age-21 laws and approximately six more are expected to have them in 1986. Our studies indicate that the age-21 laws reduce the fatal accident involvement of the affected age group by approximately 13 percent.

We proposed a regulation in September 1985 to provide guidance to the states by clarifying certain provisions in the Federal Standard and by establishing a schedule for reviewing the various age-21 laws. A final rule is currently under review and we expect to issue it in the near future. Funding support for the implementation of age-21 laws and other alcohol countermeasures will continue to be available to the states through the basic Section 402 program. Alcohol safety programs will continue to draw a large share of the Section 402 funds in FY 1987.

Seventeen states have qualified since FY 1984 for basic grants under Section 408, the alcohol safety incentive program established by Congress in 1982 and thirteen states have qualified for supplemental grants. Based on our discussions with the states that have yet to qualify, we believe as many as six to eight more may qualify for the basic grant and three more may qualify for both basic and supplemental grants during FY 1986.

Stricter state anti-drunk driving laws and enforcement practices have shown impressive results in reducing fatal crashes that are alcohol related. Along with continued high levels of public support for efforts to crack down on drunk driving, we believe the 408 program has been instrumental in encouraging these tougher laws. North Dakota, the first state to qualify and receive funds, reports that during the ten years between 1973 and 1982 prior to enactment of Section 408, 63 percent of all fatal crashes were alcohol-related. In 1984 (January - October), only 41 percent were alcohol-related. New Jersey reduced drunk driving fatalities from 376 in 1981 to 213 in 1984, a 43.4 percent decrease. Indiana, another 408 state, has reduced alcohol-related fatalities by 30 percent.

We are requesting an obligational limitation of $17.9 million for Section 408 in FY 1987, an amount which we believe is sufficient to provide grants to all qualifying states in that year. We believe that the initial authorization for the program will be adequate to cover foreseeable obligations.

Safety Belt Programs

There is considerable momentum throughout the Nation in favor of mandatory belt use laws. Since Secretary Dole's July 1984 occupant protection decision, 19 states and the District of Columbia have enacted mandatory use laws (with legislation to be signed by the Governor in 1 additional state). Many other State legislatures are considering belt use legislation, and we expect this number to increase in 1986. The initial reports on the effectiveness of these laws are heartening. In virtually every state where belt laws have gone into effect, reported usage rates have at least doubled or tripled, from less than 20 to as high as 50-60 percent. And in New York, the first state to enact a belt law, that added usage paid off. The state reports that front-seat occupant fatalities in New York dropped 17 percent in the first 9 months of the law, compared to the average figure for the preceeding 5 years, and serious head injuries to vehicle occupants dropped by 8,000.

We now have preliminary data for six of the States which had a mandatory safety belt law in effect for several months in 1985. In these six States, New York, New Jersey, Illinois, Michigan, Texas, and Nebraska, there were fewer passenger vehicle front seat fatalities during the period the laws were in effect in 1985, compared to the same period in 1984. This decline translates into a savings of over 200 lives. (Belt usage is also increasing nationwide, even in States without belt laws.)

Research and experience in this country and abroad indicates that to achieve maximum sucess, efforts to increase usage of safety belts and child safety seats must have a number of different programs operating simultaneously. Education, enforcement, incentives, and media reinforcement operate best at the community level with broad participation from many sectors. Our occupant protection program has been designed to assist states and communities to achieve these kinds of multi-dimensional programs.

We are putting forth our best efforts to ensure that information about the benefits of safety belts and of all types of occupant protection is made available. For example, 10 of the 19 states that now have belt use laws received program implementation funds from NHTSA in 1985 to assist with education and evaluation. We expect to make more funds available for this purpose in 1986. A technical assistance program to help the states with implementing and evaluating their programs has been developed. National organizations (principally health, education, and medical) are sponsoring, with NHTSA's technical and financial support, nearly 400 state and local projects to stimulate community-based programs.

We expect that States will continue to devote a substantial share of their Section 402 funds to occupant protection programs in 1987.

We are incorporating passive information, wherever possible, in our national occupant protection program. We are also continuing to support the police retrofit program, including retrofitting the innovative Breed air bag technology, and the GSA demonstration program. Our 1987 request, if approved, will provide additional support in this area.

National Driver Register

I would like to provide a brief status report on our efforts to improve the National Driver Register (NDR), the program that identifies drivers whose licenses have been suspended or revoked as a result of serious driving violations. The program to improve the NDR, which was created by Congress in 1982, requires that the NDR's current batch processing system be converted to an interactive, electronic telecommunications system and that the system's substantive data be moved to the states of record. Thus, the NDR will become an index that "points" to the states which hold data, and the NDR will no longer maintain substantive data.

The final rule establishing the procedures NHTSA will follow for the transition from the current system to the new electronic system was published in July 1985. The law requires us to pilot-test and evaluate the new system before we fully implement it. This April we expect to finish the process of selecting four states to take part in a pilot test of the on-line electronic "switchboard," called the Problem Driver Pointer System. The operational start-up for this on-line system is scheduled for mid-1987, and the results of the pilot-testing will be evaluated and reported to Congress during 1988.

In the meanwhile, we have made a number of improvements in the current NDR to make it work more effectively. These improvements include:

o Implementation of an overnight service so that states can send inquiries to the NDR over normal telephone lines and receive replies the next day. Ten states are now using this service and 12 more are expected to be added by the summer of 1986; and

- o Implementation of an on-line computer connection to the existing NDR file that will respond as fast as the planned electronic pointer system, although the information provided is less extensive. This "rapid response" technology will be offered to all states beginning in mid-1986.

VEHICLE SAFETY

We will continue our research and rulemaking efforts to improve vehicle safety and technology. In the crash avoidance area, our priorities are improved lighting, signaling, conspicuity and braking systems--particularly for heavy duty vehicles. Our crash protection work will continue to emphasize improved frontal crash protection, particularly with respect to contact with the steering assembly; occupant protection (including child safety seats, improved restraint systems, and overall interior impact protection); and side impact protection. In FY 1987 we plan to vigorously pursue the further development of our capability to use State accident data files for purposes of problem identification and countermeasure evaluation. This activity, begun in 1985, has shown considerable promise in providing the Agency with much needed information about the circumstances leading up to crashes and as such should be particularly useful in our crash avoidance, safety belt usage and alcohol program efforts.

Funding of $1 million in 1987 for biomechanics supports our trauma research which underlines the development of improved test devices. Work is also underway on injury tolerance analysis, harmonization of test devices and procedures for measuring injury. In addition, we are conducting a cooperative effort with the emergency medical services community. Emergency medical services bring traumatized crash victims to the Washington Hospital Center where medical doctors make an assessment of the injuries sustained. In the specific instances where the injuries fall within NHTSA's pre-defined parameters, a complete history of the crash event and crash victim contact points with the vehicle interior are taken. This research will lead to the improved understanding of the relationship between injury severity and vehicle crash characteristics.

Innovative strides in air bag technology and production are continuing with the development and evaluation of the all-mechanical Breed Air Bag System . It should be ready for demonstration testing in police vehicles by late summer of 1986. In part as a result of our programs, air bags are appearing as original equipment in production vehicles and are being retrofitted to existing police vehicles.

State police fleets in seven States (Arizona, California, Maryland, Mississippi, New York, Ohio, and Wisconsin) and two city police forces (New York City and River Vale, New Jersey) have had a total of 550 retrofit systems installed in their vehicles by the Romeo-Kojyo Company of Tempe, Arizona. To date there have been 27 deployments in which the systems performed as designed.

Consumer demand has precipitated the offering of air bag systems to the car buying public by several manufacturers. Mercedes-Benz has announced that driver side air bags will become standard equipment on all 1986 models. The Ford Motor Company stated that driver side air bags will be available, as optional equipment, in the Spring of 1986 on Tempo and Topaz four-door models. General Motors has just announced that driver side air bags will be offered as options on certain 1988 models.

Virtually every program within NHTSA needs current crash data to accomplish its respective safety mission. We now have ten years of Fatal Accident Reporting Systems (FARS) data: a census of all fatal motor vehicle accidents during the last decade. The seven-year-old National Accident Sampling System (NASS) provides detailed information from direct investigations of a statistically representative sample of police-reported accidents across the nation. NASS continues to provide substantial insights into the full spectrum of traffic crashes.

This year, we improved NASS by increasing the proportion of serious crashes investigated, and upgrading the productivity of field operations. In FY 1987, we will enhance the usefulness and productivity of NASS by improving the sampling program while reducing the collection of data less relevant to our priority programs.

Additional insight into crash losses and occupant crash protection comes from our special investigations. Special investigations are conducted into air bag deployment crashes, serious school bus accidents, and crashes that produce major head and neck injuries. The latter have been done in connection with the shock-trauma unit of the Washington Hospital Center so that we can better follow the aftermath of these most serious crash injuries.

A continued area of emphasis in fiscal year 1987 is the International Harmonization Program, designed to reduce or eliminate inconsistencies between U.S. and European motor vehicle standards. During the past four years, the agency has enhanced U.S. participation in the deliberations of the Economic Commission for Europe of the United Nations, by becoming more active participants in the WP-29 group, particularly in the harmonization of brakes, lighting, and controls and displays for passengar cars.

We have undertaken the harmonizing effort at the specific urging of Congress and the domestic auto industry. This effort has already resulted in the amendment of both the standards on controls and displays and lighting to bring them into closer harmony with European standards thus enhancing the auto industry's ability to compete in the world market. Also, progress continues on brake standards through the publication in May 1985 of a proposed harmonized standard for passenger car brakes. This effort has been aimed at reducing the potential for non-tariff barriers to trade without compromising our currently established safety performance levels.

Our efforts in the coming year will build on this successful beginning and move toward harmonization of brake standards for all classes of vehicles, concentrating still more attention on lighting standards, and initiating additional efforts in the area of crashworthiness standards.

We are also continuing our effort to assist the marketplace to support upgraded safety and efficiency through consumer information activities such as the New Car Assessment Program and the Uniform Tire Quality Grading Standards.

ENFORCEMENT

The Enforcement area continues to be of the highest priority. Our emphasis during FY 1987 will be to continue the process of enhancing our defect investigation capabilities. The streamlining of the defect investigation information handling process that started in FY 1985 will be completed before the end of FY 1986. This involves the use of a microcomputer network to support the technical and management aspects of the defect evaluation process. This system, which is partially operational, is already enhancing the investigator's ability to reach a decision concerning the significance of defect related complaints and to rapidly analyze the complaint file to identify all pertinent failures and perform comparisons of peer vehicle experience. In addition, the overall quality and timeliness of defect analyses is improving, which should result utlimately in an overall increase in effectiveness. The average time to conduct preliminary evaluations and engineering analyses has been reduced over 20 percent. We expect these efforts along with other planned initiatives in the ADP area will allow us to respond to budget pressures with minimal program impact.

A continuing emphasis will also be placed on the enforcement of the Federal Motor Vehicle Safety Standards (FMVSS) through the agency's compliance testing program, and the surveillance of nonconforming vehicles imported under bond to assure that appropriate modifications are made to bring them into compliance with the FMVSS.

Continued growth has been experienced in the number of grey market vehicles imported under the provisions of the joint NHTSA-Customs Service regulation which requires that imported motor vehicles and equipment comply with, or be modified to comply with the FMVSS. During 1985, 66,879 such vehicles were imported compared to 37,422 vehicles in 1984. Notwithstanding such growth, processing improvements and additional resources were introduced during 1985 that have reduced the normal processing/release cycle from the 4 months prevalent at that time, to approximately 3 weeks currently.

BUDGET OVERVIEW

For 1987, our budget submission provides for a total program level of $211.8 million. This consists of $83.9 million under the Operations and Research Appropriation and obligation limitations of $127.9 million for Highway Traffic Safety Grants. The request of $83.9 million for Operations and Research includes $54.9 million of Federal funds for programs authorized under the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act, and $29 million from the Highway Trust Fund for programs authorized under Section 403 of the Highway Safety Act. The 1987 request of $83.9 million compares to the FY 1986 appropriation level of $85.7 million, after sequestering of funds required by the Gramm-Rudman Hollings Amendments.

Within the 1987 request, $8 million is included which will support ongoing contract programs at levels originally appropriated for 1986, and allow for expanded efforts to promote occupant protection (both active and passive systems), as increasing numbers of safety belt use laws are enacted and greater numbers of cars equipped with automatic protection become available in the market place. These increases in funding are more than offset by reductions compared to the FY 1986 appropriation, since no new funds are required in 1987 for trauma research. Funds of $9.8 million allocated for this effort in 1986 (after sequestering) will finance the program over a three year pilot test period.

The request of $127.9 million for obligation limitations under the Highway Traffic Safety Grants Appropriation includes $110 million for Formula Grants (Section 402) and $17.9 million for Alcohol Safety Incentive Grants (Section 408). The amount of $110 million requested for 402 Grants provides for an increase of about $11 million in general purpose funding for the program compared to 1986, after sequestering, and after deducting the amounts stipulated in 1986 for child restraint programs and computerized traffic recordkeeping systems. To maximize effectiveness of funds, our budget proposes ending the earmarking of funds for special purposes, with choices on how to spend the funds to be left to the States.

The sum of $17.9 million sought for the Section 408 program represents an amount which we believe is sufficient to provide grants to all States which are expected to qualify for entitlement in 1987.

This concludes my statement, Mr. Chairman. I will be happy to answer any questions that you, or members of the Subcommittee have concerning our budget request.

BIOGRAPHICAL SKETCHES

ERIKA Z. JONES

Chief Counsel
National Highway Traffic Safety Administration
Washington, D.C. 20590

CURRENT POSITION

1985-present - Chief legal advisor to NHTSA Administrator and other key agency officials. Direct day-to-day activities of legal staff of 28 in areas of rulemaking, litigation, legislation and general law. 202-426-9511

PRIOR EXPERIENCE

1981-1985	Special Counsel (Special Assistant) to the Administrator/Deputy Administrator, NHTSA
1980-1981	Attorney/Regulatory Policy Analyst Office of Management and Budget
1976-1980	Federal Communications Commission staff
1971-1976	Office of Congressman Philip M. Crane

EDUCATION

J.D. 1980 - Georgetown University Law Center
A.B. 1976 - Georgetown University

BAR ADMISSIONS

District of Columbia

HONORS/AWARDS

*DOT Outstanding Performance Award, 1983, 1984, 1985
*DOT Secretary's Medal for Meritorious Achievement, 1982
*FCC Outstanding Performance and Special Achievement awards, 1977, 1978, 1980
*Named an *Outstanding Young Woman of 1981* by the General Federation of Women's Clubs
*Appointed Law Fellow, Georgetown University Law Center, 1979
*Elected to Phi Beta Kappa, 1976
*A.B. Awarded *magna cum laude*, 1976

BARRY FELRICE

620 Goldsborough Drive
Rockville, Maryland 20850
Phone: (301) 340-8185

Place of Birth:	Brooklyn, New York
Date of Birth:	June 16, 1945
Height:	5' 10"
Weight:	155 Pounds

Married in 1970; Wife - Joan

Children (Age): Stefanie (12)
Jessica (9)

EDUCATION

Attended public schools in Brooklyn, New York

High School: Brooklyn Technical High School, Graduated - June 1962

Colleges: City College of New York, Bachelor of Civil Engineering, June 1967
Northwestern University, Master of Science (Civil Engineering), September 1968

Major Subjects: Transportation/Urban Planning
Highway Engineering

EMPLOYMENT EXPERIENCE

January 1984 - Present

Associate Administrator for Rulemaking
National Highway Traffic Safety Administration
U. S. Department of Transportation

Principal advisor to NHTSA Administrator on all motor vehicle regulatory matters. Administers programs to develop and promulgate Federal standards dealing with crash protection, crash survivability, crash avoidance, fuel economy, vehicle theft protection, and vehicle damageability.

July 1979 - January 1984

Associate Administrator for Plans and Programs
National Highway Traffic Safety Administration
U. S. Department of Transportation

March 1978 - July 1979

Acting Associate Administrator for Plans and Programs
National Highway Traffic Safety Administration
U. S. Department of Transportation

Principal advisor to NHTSA Administrator on all matters relating to Agency policy and in the development, implementation, and evaluation of NHTSA programs. Responsible for developing long-range program goals and plans for achieving those goals. Directs a high level staff in the areas of program and policy planning, program analysis, economic impact analysis, and progam evaluation.

February 1977 - July 1979

Director, Office of Program and Rulemaking Analysis
National Highway Traffic Safety Administration
U. S. Department of Transportation

Responsible for the conduct of economic/inflationary impact assessments of NHTSA rulemaking and program activities. Independent and chief advisor to the Administrator on costs of motor vehicle safety, fuel economy, and damageability rules and economic consequences of them. Recommend continuation, modification, or cessation of rulemaking actions based on analyses performed.

September 1968 - February 1977

Highway Engineer
Federal Highway Administration
U. S. Department of Transportation

Occupied a succession of positions in the policy planning offices of FHWA. Assisted in the development of legislative recommendations for the highway program. Prepared substantive budget issue papers for the Secretary. Active in the area of financing of highway programs. Authored major portions of several reports to Congress on highway needs and financing and participated in several Federal/State/Local highway needs and classification studies.

PUBLICATIONS

Financing Federal-Aid Highways, FHWA, US DOT, January 1974

Financing Federal-Aid Highways -- An Amplification, FHWA, US DOT, July 1974

Financing Federal-Aid Highways -- Revisited, FHWA, US DOT, July 1976

The Contributions of Automobile Regulation, NHTSA, US DOT, June 1978

The Effects of Automobile Regulations on Industry Competition, NHTSA, US DOT, November 1979

AWARDS

Presidential Rank of Distinguished Executive - 1985

Presidential Rank of Meritorious Executive - 1983

Secretary of Transportation Award for Meritorious Achievement, 1978, 1982

Senior Executive Service Bonuses, 1980, 1981, 1982, 1984

Federal Highway Administrator's Award for Superior Achievement, October 1975

Outstanding Performance Ratings, 1975, 1979-1985

Quality Increase, March 1976

Cash Award, March 1979

Walter P. Murphy Fellowship, Northwestern University, 1967-68

Automotive Safety Foundation Fellowship, Northwestern University, 1967-68

PROFESSIONAL SOCIETIES

Member, Society of Automotive Engineers

Member, National Committee on Uniform Traffic Control Devices

Member, Senior Executives Association

Former Member, Transportation Research Board

HOWARD M. SMOLKIN

Managing Director
National Highway Traffic Safety Administration

Mr. Smolkin currently serves as the National Highway Traffic Safety Administration's Managing Director. In this capacity, he is directly responsible for the agency's Research and Development, Plans and Programs, and Administration activities, as well as having responsibility for management issues affecting the agency as a whole. Mr. Smolkin formerly served as the NHTSA Deputy Administrator.

Before coming to NHTSA, Mr. Smolkin served since 1977 as Deputy Associate Director for Special Studies in the Office of Management and Budget (OMB). In this position, he supervised technical studies and co-authored numerous publications dealing with transportation, finance, industrial and economic development, housing, and Government operations issues. Prior to that, he was Assistant to the Deputy Associate Director of the Economics and Government Division at OMB where he was responsible for legislative and budgetary actions related to the Departments of Transportation, Commerce, Justice and Treasury, as well as 30 other agencies.

Earlier in his career, Mr. Smolkin served as a budget examiner in OMB and as an economist with the Federal Energy Office, the Environmental Protection Agency and the Agency for International Development.

Mr. Smolkin is a graduate of Princeton University's Woodrow Wilson School of Public and International Affairs with a master's degree in economics and public affairs. He also earned a bachelor of science degree in economics from the University of Maryland.

ADELE SPIELBERGER

Adele Spielberger is the Associate Administrator for Plans and Policy for the National Highway Traffic Safety Administration (NHTSA). She has responsibility for NHTSA's planning and budgeting function. Her responsibilities also include the preparation of cost-benefit analyses for agency rulemaking proceedings and the evaluation of the effectiveness of existing regulations.

She joined NHTSA in February 1980, serving first as Director of the Office of State Program Assistance and then as Director of the Office of Driver and Pedestrian Research. Prior to that she was the Governor's Highway Safety Representative for the State of Florida and held a variety of management positions in Florida State Government. She also held a faculty appointment with the Institute for Social Research at Florida State University.

A native of Boston, Ms. Spielberger holds a B.S. degree from Tufts University in Massachusetts and a M.A. degree in Public Administration from the Florida State University.

JEFFREY R. MILLER

Deputy Administrator
National Highway Traffic Safety Administration

In October 1985, Secretary of Transportation Elizabeth Dole appointed Jeffrey Miller as Deputy Administrator of the National Highway Traffic Safety Administration (NHTSA). An agency of the U.S. Department of Transportation, NHTSA administers the Federal Government's programs for motor vehicle and driver safety.

Miller brought more than four years of experience in transportation law to the number two position in NHTSA. He joined DOT in March 1981 as Special Assistant to the General Counsel, and was appointed as the Department's Associate General Counsel in April 1984. In March 1985, he was named Chief Counsel of NHTSA, the position he held until his appointment as Deputy Administrator.

A native of Pittsburgh, Pennsylvania, Miller graduated in 1974 from Yale University, where he majored in economics and served as executive editor of the Yale Daily News. He graduated cum laude in 1978 from the Dickenson School of Law in Carlisle, Pennsylvania, and was admitted to the Pennsylvania State bar that year. He held a variety of positions with the Pennsylvania State Senate from 1975 to 1978, practiced law as an associate with the Pittsburgh firm of Campbell, Thomas & Burke from 1978 to 1979, and served as an Assistant Attorney General with the Pennsylvania Department of Labor and Industry from 1980 to 1981. He also served as Assistant Press Secretary in the Drew Lewis for Governor of Pennsylvania campaign in 1974, and as Pennsylvania Director of the George Bush for President campaign in 1980.

Miller is 33 years of age, single, and resides in northwest Washington, D.C.

BARBARA DESIND KERNAN

Mrs. Kernan was born in New York City, but was raised in the Washington, D.C. area, graduating from Montgomery Blair High School ranked as first woman in her class of 550. She attended the University of Michigan at Ann Arbor (where she was in the top 1 percent of her class) and graduated Smith College cum laude in English. She earned an MA from Harvard University in Education and Literature in 1963. She studied further at Oxford University and has completed all course work and comprehensive examinations (with distinction) toward a Ph.D. in Public Policy at George Washington University. In 1973, she was selected as a Congressional Fellow of the American Political Science Association and served in the Offices of Congressman Alphonzo Bell (R. of Los Angeles) and of Senator William Proxmire (D. of Wisconsin). In 1983, she was chosen as a Fellow of the John F. Kennedy School of Government at Harvard University and attended a program in public policy for Federal Senior Executives.

Mrs. Kernan's career began as an editor at Harvard Law School. She then taught high school English in Newton, Massachusetts and returned home to Washington to participate in the development of Project Upward Bound, a Federal program for disadvantaged high school students. In 1969, she joined the U.S. Office of Education (USOE) in the Title I (Elementary and Secondary Education Act) program. She gained further responsibilities with respect to all elementary and secondary education programs when she joined the staff of the Deputy Commissioner in 1975 where she led initiatives on exemplary program dissemination and school finance.

In 1979, she was recruited by the Commissioner of Education to lead an agency-wide effort to resolve mutual management/programmatic concerns that led to her appointment in the administrative area of the Department of Education (ED) where she was responsible for organizational and internal management control and service functions. In 1981, she was selected through a rigorous competition to enter the Senior Executive Service Candidate Development Program (SESCDP). Her developmental assignment was completed at the U.S. Department of Transportation in the Office of the Secretary. In February, 1986, she was promoted to the Senior Executive Service to her present position.

Mrs. Kernan and her husband Joseph, a Program Manager with the Small Business Administration, live in Rockville, Maryland.

CURRENT POSITION

Associate Administrator for Administration, ES-4

CURRENT DUTIES

Serves as the administrative program manager for NHTSA and is a member of the Administrator's key staff. Directs the execution of a comprehensive program of administrative and management support for NHTSA, both at the Washington headquarters and its ten Regional Offices, including: personnel, management services, computer support, contracts and procurement, financial management, and administrative services.

CAREER HONORS AND AWARDS

Numerous cash awards and quality increases 1969-80, USOE, HEW.
Yearly bonuses for Outstanding Performance 1981-86; additional bonuses for Special Achievements, 1982, 1985, ED.
Congressional Fellowship, 1973-74.
Senior Executive Fellowship, 1983 JFK School of Government, Harvard University.
Ranked First of 4 competitively selected SESCDP participants, 1981-84, ED.
Listed in Who's Who in the East.

BUDGET INCREASE FOR OPERATIONS AND RESEARCH

Senator ANDREWS. Thank you very much.

Your budget justification states that operations and research programs are frozen to near the 1986 level, yet after post sequester and the netting out of the one-time funding for the trauma research program, operations and research increases over $7 million or nearly 11 percent. Why?

Ms. SPIELBERGER. A $7 million increase or decrease?

Senator ANDREWS. Well, it actually ends up with about an 11-percent increase.

Ms. SPIELBERGER. We do have a pretty even budget. We have a decrease reflected in the reduction for the trauma study. That was a $10 million increase. The only increase we have is for belts, and that is a $3 million increase. Otherwise it is just a little bit of growth in each program area.

Senator ANDREWS. Well, the figures that we have show that there is a rather significant increase in the budget after netting out the trauma research program, and that is why we were wondering.

Ms. SPIELBERGER. That was a one-time funding, and that was in 1986. That is reflected as a decrease in the 1987 request.

Ms. STEED. It is a fairly level funded budget, Mr. Chairman, I think, if you take that consideration out.

Senator ANDREWS. Well, the figures that we have, and this is your page 2 of your submittal, you have got a fiscal year 1987 request, $83,930,000. That compares with a fiscal year 1986 after sequestering of $80,246,000. You asked for $5.5 million.

Ms. SPIELBERGER. That is a $3 million belt increase which we are requesting in our budget plus a little growth in two other areas.

Senator ANDREWS. It is an 11-percent increase if you compare the $75.531 million with $83.930 million, according to our figures.

Ms. SPIELBERGER. May I flesh that out and supply it for the record?

Senator ANDREWS. Sure. You already have it for the record. You subtract $5.5 million—I hate to do your arithmetic for you. This is the bottom of your column, under the operations and research appropriation for the National Highway Traffic Safety Administration, your shop. You have got under fiscal year 1986 after sequestering $80.246 million minus $5.5 million transfer gives you a net of $75.531 million. The request for 1987 is $83.930 million. According to our figures, an 11-percent increase, and all we want to know from the administrator is how come the major factors for this increase in the budget, because we have been seeing cuts in highway building, and many people tell us the best way for safety on the highways is to build modern highways.

[CLERK'S NOTE.—The information is provided in the answers to Senator Andrews' prepared questions on this subject.]

Ms. STEED. I will have to supply the details for you, Mr. Chairman, but essentially what our budget——

Senator ANDREWS. We want the details. We want the logic.

Ms. STEED. Essentially it represents a level funded program for ongoing research, and the increase is about $3 million for the belt program.

SAFETY BELT USAGE

Senator ANDREWS. The budget justification also states that 23 percent of the general population currently uses seatbelts. Fifty-six percent of infants and children birth to 4 years are placed in child safety seats.

On what basis did you make this estimate? Those figures always come floating in on some pink little cloud, and we wonder where do you get them?

Ms. STEED. We do a 19-city survey as we have done for a number of years where we actually observe belt usage in 19 cities across the country.

Senator ANDREWS. What do you do, stop the cars?

Ms. STEED. No; we actually watch them as they go by and can count the number of people who are wearing belts. We also do child safety surveys that way.

Senator ANDREWS. You mean people come by in cars and you have some superman x-ray vision, you can see through the side panels and tell who is using belts?

Ms. STEED. Essentially. Many people our contractor hires are college students, and they are taught to observe belt usage as the cars go by. This is the same survey and survey technique that we have done for a number of years. For example, 4 years ago or so, if you had asked, the same number for adult belt users would have been about 11 percent.

Today we have seen an increase to about 23.3 percent. Let me point out that that number in those 19 cities contained two cities that are in States with belt use laws, and you would expect to see belt usage higher there. If you subtract those two cities out, belt usage in the remainder of the 19 cities is about 21.6 percent.

Senator ANDREWS. Did you include those two cities with mandatory seatbelt use laws in effect in your overall sample on the basis of accurate percentages so that they reflect the true percentage of mandatory seatbelt laws in the country, or would they possibly be skewing your results?

Ms. STEED. That is why I backed them out. If you do not count those two cities, since usage is likely to be higher, you would have about a 21.6-percent usage.

Senator ANDREWS. Which is a far cry from your 25 percent target.

Ms. STEED. I think it is pretty close. As more and more belt laws have come on line, I think the number will come up. I think the way to read the survey data is to say that in those States with belt use laws more people are wearing belts, and because of all the debate that is going on about safety belts we are seeing a spillover effect into States that do not have belt use laws. Belt use there is also rising. I think that is good news, and I am very pleased to see it.

Senator ANDREWS. Well, it is still a 20-percent shortfall, but the figures that amaze me are how a group of college students can stand on the side of the road and watch these automobiles go by at a pretty uniform clip and tell if seatbelts are on or not.

Sometimes I think they anticipate the results you want to get, and the results come out to about that level. What percent of people in accidents are wearing seatbelts? Has anyone developed some statistics on that?

Ms. STEED. We are looking at that question. We know that a lower percentage of people in accidents wear safety belts, but I do not have that figure for you today.

Senator ANDREWS. Well, since the people who get involved in accidents, since they are accidental, ought to be a pretty accurate cross-section of the traveling public, would not the percent of seatbelt usage you are finding with those involved in accidents be a more accurate reflection of the percent of seatbelt use than this business of having some college student anticipate who is wearing a seatbelt as the car drives by?

Ms. STEED. I am not sure, because to get that figure we would have to rely on accident reporting, actual State accident reporting. We know that that is not as reliable perhaps as an actual observation count. However, we are looking into the number of people in accidents actually using belts.

GENERAL MOTORS SAFETY BELT INSURANCE

Senator ANDREWS. The Washington Post on January 27 had an interesting story. It reported that General Motors Corp. paid $10,000 to heirs of anyone killed while wearing a seatbelt in a late model GM car. It has cost the company $2.4 million during the past 21 months. Have you backed that off in a percentage of seatbelt wearers? Obviously there must be some evidence here or they would not be paying out the $2.4 million. What kind of percentage figures have they gotten, and have they shared them with you, or have you been intrigued by that kind of an award to the point where you have investigated it?

Ms. STEED. We have looked into it a bit. Remember that every new car or truck that was sold by GM had an insurance policy in the glove compartment, so if you look at 240 claims out of 8½ million cars sold during that period, I think that speaks pretty well for safety belts.

Senator ANDREWS. Well, speaking well and having some statistical significance is a little difficult to analyze. When they have sold those millions of cars and get 240 claims, does that mean that fatal accidents being a certain percentage of overall accidents? And I would imagine you can estimate what percent of drivers were therefore using their seatbelts, but you have not gotten any information for this particular program?

Ms. STEED. No; we have not gone into any specific detailed investigation of the GM program.

Senator ANDREWS. I think that General Motors deserves to be commended. I do not know how you get people to wear seatbelts rather than say, hey, if you are dead, your family gets $10,000 if you wear it. I am intrigued by the public service nature of it. I think that you should have some of your statisticians who think they can see through sidewall panels and find out who is wearing seatbelts to check into this program and find out what percentage this program is resulting in, then we might have more accurate figures when we talk about the success or lack of success of your program. We are looking for hard information so we would know better where we are going to end up.

FUEL ECONOMY STANDARDS

You recently took public comment at a February 19 hearing on fuel economy standards for 1987 and 1988 model cars. What are the existing standards for those model years?

Ms. STEED. 1987 and 1988? The standard at this point is 27.5 as set by the Congress.

Senator ANDREWS. When are you going to make a ruling?

Ms. STEED. The comment period closes toward the end of this month, Mr. Chairman. We will then analyze the public comments, so I would anticipate a decision by this summer.

Senator ANDREWS. What were the major reasons you agreed to lower the standard, the 1986 standard from 27.5 to 26 when data at the time suggested that all three of the major domestic auto manufacturers were above this level?

Ms. STEED. I am not sure that the data reflect that they were above the level. We have to take into account several very specific statutory requirements such as economic practicability, technological feasibility, and the need of the Nation to conserve energy. Then we have to set the standard at the maximum feasible level.

Senator ANDREWS. Well, the low is 26.2, which is well above the 26 that you set. You went down below everything. Could you not have nudged them up a little?

Ms. STEED. We did some very detailed analysis and investigation of their figures to verify them. We did not simply take what the auto manufacturers told us. Our biggest concern was the potential loss of some 110,000 jobs if the manufacturers in fact had to stop making the big cars and close down plants. That was one of the factors that we had to take into account, and perhaps one of the biggest ones that caused us to make the decision on 26 miles per gallon.

ALCOHOL SAFETY INCENTIVE GRANTS

Senator ANDREWS. Your fiscal year 1987 request for the alcohol safety incentive grants obligation ceiling is $17.9 million. If all of this amount was obligated, what would be the resulting balance in this account?

Ms. STEED. If you are asking if funds would lapse in fiscal year 1986, no, no funds would lapse in fiscal year 1986. If we go to the fiscal year 1987 budget, we estimate that about $18 million would lapse.

Senator ANDREWS. Well, it looks as though the 1983 authorization would be exhausted, but our figures show that approximately $34.8 million of 1984 funds will lapse at the end of fiscal year 1987. That is double your estimate.

Ms. STEED. If we look at obligations year by year, of 1984 obligations, we obligate at about $5.2 million; of 1985 obligations, about $6.3 million; and for 1986 we plan to obligate about $27.6 million.

Senator ANDREWS. We asked the question last year on this whole alcoholism and drunk driving concept. We are finding that so many of the accidents involve drunk drivers, and obviously that is where we want to move to cut back on these highway fatalities and injuries. We asked you about this program last year and you stated that analysis of the program would be completed in the spring, and recommendations finalized by the summer, the summer of 1985. I would like you to provide the committee a copy of that analysis and agency recommendations and in summary what was the result of that effort.

[CLERK'S NOTE.—The information is provided in the answer to Senator Andrews' prepared question on this subject.]

Ms. STEED. In looking at the criteria, we concluded that we would not recommend a change in the basic criteria. Although they are very tough, States are meeting those criteria. In those States that have taken steps to qualify we do see dramatic reductions in the number of alcohol-related fatalities. Your own State of North Dakota is a good example, Mr. Chairman. We saw a 37-percent reduction in alcohol-related fatalities. We believe that tough standards are appropriate, and that the incentive program as envisioned by the Congress is in fact working.

Senator ANDREWS. Well, do not sit back and relax, because we are doing it right. We are pretty thoughtful people up in North Dakota, so we might be the exception rather than the norm.

The key thing is that the drunk driver imperils the sober driver, the family with children on the road, and when we have funding authorized to set up programs to stop drunk driving, and when we see by our estimate some $34 million that may well be turned back because you have not obligated it in trying to correct this drunk driving problem that so endangers the average driver.

We wonder why not. We still have statistics showing us that the accident cost by those drivers who have had too much to drink are appalling. How can you justify the one with the other? How can you say that given the accident rate that is still out there, given the fact that you are going to turn back a good percentage of these moneys available to you, you are really addressing the problem.

Ms. STEED. Well, we are encouraging the States and working closely with them to get them qualified for this program. We spent a lot of time interpreting the criteria and encouraging them to take the kind of steps that are necessary.

For example, one of the biggest problems is the hard license suspension, and the suspension within 45 to 90 days. We have tried to work with States to shorten up that time a little bit, but I would also say the 408 Grant Program is not the only source of funding, Federal funding for anti-drunk driving efforts. The 402 funds are a primary source for these efforts, and States in fact are spending about 60 percent of their 402 funds to fight the drunk driving problem.

CLOSING REMARKS

Senator ANDREWS. We will be interested in any additional information you can give us. I have a number of additional questions for the record. Other Senators may well. I am going to recognize in a moment Senator Lautenberg, but before I do, let me express my appreciation for your coming here. I am also a member of the Subcommittee on Defense. I am going to go over and find out about the Strategic Defense Initiative [SDI]—how much money we are spending on it when we do not have enough money to spend on highway construction programs, but Lewis Carroll once wrote a book that pretty well described those kinds of things.

I appreciate your being here today.

Senator Lautenberg.

Senator LAUTENBERG. Thank you, Mr. Chairman.

It will be interesting to see how the SDI Program can intercept all those oncoming missiles, and we can intercept all those drunk drivers that are all over the highways.

NATIONAL SPEED LIMIT

Ms. Steed, first, my compliments on a good performance in being able to report this improvement in fatality rate on the highway system. That is very encouraging, and of course we like to think that some part of that, and you acknowledge that in you comments, is due to the initiative we took on the uniform drinking age, and we appreciated your support then. We will talk about that in a minute.

I was going to ask some questions as to how we can make that permanent. I am just curious about something. Do you think—I do not see in your comments anywhere that the continuation of the 55-mile-an-hour speed limit rate has helped reduce highway fatalities.

Ms. STEED. I do indeed. As a matter of fact, we were quite pleased to see the National Academy of Sciences report that was issued agree that although the 55-mile-an-hour speed limit was enacted as an energy saving measure, that it does in fact save lives. That has been the position of my agency for a long time. So, yes, we do believe that it has saved lives.

Senator LAUTENBERG. And that requires, therefore, more rigid enforcement of the laws around the country in order to make it effective? Just posting it does not do it. We know that.

Ms. STEED. That is correct.

AUTOMOTIVE RADAR DETECTORS

Senator LAUTENBERG. I have noticed articles recently on the growth of radar detectors in cars around the country, cars and trucks, vehicles around the country. It subverts the law, obviously, no matter how they disguise these things. The intention is to only slow down when you think you are going to get caught and not slow down when it is safer for improved safety on the highway.

Have you considered any comments, any review of that situation? What do you think we ought to do about it? Just ignore it?

Ms. STEED. No, sir; we have not looked into it specifically. We have been talking with law enforcement officers about ways to improve enforcement; however, we have not specifically looked at radar detectors.

Senator LAUTENBERG. Because also to salute lawlessness in whatever form it is, these things are designed to violate the law. I think it is morally not understandable.

PERMANENCE OF UNIFORM MINIMUM DRINKING AGE

The budget reconciliation package for fiscal year 1986 carries with it a section making the provisions of the uniform minimum drinking age permanent. Does the administration support that?

Ms. STEED. Yes, sir; we do. We think that the uniform drinking age is a very, very good idea. We have supported that, as you know. I am concerned, for example, that some of the laws that are being enacted have a sunset clause in them, that they would sunset the law if the penalty goes away. I think on that basis and on the need to stop the blood border problem, we would support a permanent sanction.

Senator LAUTENBERG. OK, because we have tried to make some changes, as you know, included in the reconciliation recommendation for 1986 as a permanentizing of the 21 drinking age law. There have been all kinds of clever schemes being developed to circumvent it, and we would like to stop that, and I am glad to have your support. The Secretary has indicated her support in the last couple of years, and we are encouraged to hear you say it right now.

RESEARCH ON RAISING THE DRINKING AGE

Are you familiar with the study done by researchers at Case Western in which they attempt to prove that raising the drinking age is ineffective to lowering deaths and injuries caused by drunk driving by young people?

Ms. STEED. Yes, sir; I am.

Senator LAUTENBERG. What is your assessment of that study?

Ms. STEED. We think that the study is basically flawed for several reasons. First of all, they used data straight out of the fatal accident reporting system for all those States that they looked at. We know that there are about 15 States that do a very good job of accurately reporting alcohol involvement in accidents, and we extrapolated and use only those 15 States. The researchers used the raw data, so that is one problem.

It also disaggregated the data into such small numbers and such small groups that we think it is not a statistically valid sample. There is no question in my mind that the 21 drinking age is saving lives. As a matter of fact, I mentioned our study where we see it reducing youth involvement in alcohol related accidents by about 13 percent.

FEDERAL DRINKING AGE REGULATIONS

Senator LAUTENBERG. One of the things that concerns me, and I see it in your statement, is the amount of time it has taken to get the regulations out there. Is there something that is going to OMB for Federal review? Have the regulations gone to OMB for their comment, their response?

Ms. STEED. They have not yet, but they are in the very final clearance stages within the Department, and I anticipate them going to OMB very soon.

Senator LAUTENBERG. When do you think we might be issuing these final regulations?

Ms. STEED. I would hope in the very near future. I would hate to give you a date. As you know, OMB held up the regulations some time last year, I would think we can have it out of the Department within the next couple of weeks. I see no problem with that at all.

Senator LAUTENBERG. And are you encouraged to think that you will get expedited treatment over there?

Ms. STEED. We certainly will try. I would elicit your help on that problem also.

Senator LAUTENBERG. You are probably able to influence more the outcome than I, but we will try.

OCCUPANT PROTECTION EDUCATION

Senator Danforth and I offered an amendment in fiscal year 1984 to fund a balanced program of occupant protection education. I am concerned about how balanced that program has been. The funds provided for occupant protection education, what percentage of that has gone to passive restraints?

Ms. STEED. I would have to say that we are trying to have a balanced program. I could not separate out for you exactly the amount of funds spent on passive education as opposed to the amount of funds spent on occupant protection education as a whole because it is our goal to put passive restraint education information in everything we do. We have produced some brand new educational materials that point out why occupant protection is important and how automatic crash protection works and others that try to address the myths that are still associated with airbags.

So, I would hate to give you a figure, because it would be very hard to do. Our intent and our practice is to put it in everything we do. We have, however, spent, as I would remind you, about $5 million on the GSA program, about $1.4 million on retrofitting police cars with airbags, and we intend to spend about $1.2 million on the retrofitting and developing the new Breed system.

So, I think if you look at the overall budget, we are in fact conducting a balanced program.

Senator LAUTENBERG. Could we kind of get a percentage estimate on where these things are spent? Could someone in your office——

Mr. Steed. Certainly. We would be glad to try to develop that for you. Again, I would say that we received no additional funding for the safety belt program last year. It was a kind of on again, off again. We tried to concentrate our funds on educating the people on the need for occupant protection and on belt use laws. I think now that the passives will be coming on-stream, not only will we be doing more in this area, but also the auto companies, I think, will be doing a lot of advertising on passive restraints.

Senator LAUTENBERG. If you could furnish me with some indication of what the percentage of effort or concentration is there.

Ms. STEED. Certainly.

[CLERK'S NOTE.—The information is provided in the answer to Senator Lautenberg's prepared question on this subject.]

SAFETY BELT AND PASSIVE RESTRAINT EFFORTS

Senator LAUTENBERG. Would you want to characterize the difference in your efforts on mandatory seatbelts with those of passive restraints? I mean, the focus is definitely on the seatbelt side to this point, as I understood your remarks.

Ms. STEED. Again, because we got no additional funds last year, our initial efforts were concentrated on belt use education and on the need for occupant protection, including both child safety and adult safety.

Senator LAUTENBERG. New Jersey passed a mandatory seatbelt law, but specifically sought to avoid being counted against the two-thirds of the population that would trigger rescinding of the passive restraint requirements.

On what grounds could you count New Jersey when the State legislature specifically asked that they not be counted?

Ms. STEED. I think, Senator, it is very difficult to determine intent—whether people want the laws "counted" or not. What we will have to go on when the Secretary rules on these laws is the actual statutory content in comparison to the criteria in the rule.

Senator LAUTENBERG. Because there is, of course, the debate that rages on about whether or not that ought to be the triggering mechanism, and when I see that in my State they specifically said don't do it, that it is still being considered in some way for the decisionmakers.

I am reminded that New York State is party to a suit seeking to rescind that qualification, that is, to be included in the two-thirds. So we would like to see if we can get another approach to that, and maybe we ought to talk to the Secretary directly, but your recommendation would be helpful.

Ms. STEED. I think so, and I think, as you know, the lawsuit is coming up again for rehearing on March 11, and at this point the Secretary has said that we will not address the specific criteria while the matter is in the hands of the court.

SAFETY BELTS IN SCHOOLBUSES

Senator LAUTENBERG. There has been support in several New Jersey communities that are requiring new schoolbuses to be equipped with seatbelts. Would this support the idea and provide incentive grants to communities which undertake that expense?

Ms. STEED. At this point I think that is one of the toughest questions we have to answer. We did a study this last year, Senator, that looked at that question specifically. As a result of that study we said that we would not set a Federal requirement for belts on all schoolbuses for a number of reasons.

First of all, schoolbuses are the safest form of transportation we have today. As we watch the safety performance of schoolbuses, by far and away the greater amount of children, the greater number of children are killed getting off and moving around the schoolbus rather than on the schoolbus.

We believe that the compartmentalization concept—which basically means we took the hard railings off the back of schoolbus seats, made the padding in front of the children on the back of the seat in front of them able to absorb the energy in a crash—provides excellent safety for children.

So, as I look at it, at this point I would not require all schoolbuses to be equipped with safety belts. A couple of things concern me. Canada has done some research where they crash tested schoolbuses with different seating configurations. They put instrumented dummies in the buses—some were belted, others were unbelted. And in every single case, the belted dummy did worse than the unbelted dummy, which confirms our feeling about compartmentalization.

I am not yet satisfied, however, that that is the final answer. For those communities that would like to put belts on their buses, we will work with those communities and help them learn how best to do it. We have a notice of proposed rulemaking out saying that if people want to have belts on their buses, this is what they should order. We are trying to give all the advice we can to the local communities, but as far as a Federal requirement goes right now, I could not recommend that.

Senator LAUTENBERG. Is there less general accident percentage among—with schoolbuses than there are other vehicles on the road?

Ms. STEED. Yes; that is correct. And in accidents, the schoolbus invariably, simply because of its size and structure, does much better than the passenger car.

Senator LAUTENBERG. We have had, however, some terrible accidents in which several children have been killed.

Ms. STEED. There are some, and when they occur, they can be very catastrophic. But again, that is why where a local school district feels that in its particular area, with the particular kind of traffic and roads, they would like to have belts on their buses, we stand ready to assist them.

Senator LAUTENBERG. But you are not encouraging them. You are not suggesting that—even that better fatality or injury rate might be improved with the use of seatbelts?

Ms. STEED. No; I am not. I would also refer you to some of the accident investigation reports the National Transportation Safety Board has done of schoolbus accidents. They have not found that belts would have helped in any report that I have seen of their investigation of a schoolbus accident. We are not closing the door or closing the books on this question, however. Canada again is going to conduct some additional crash tests and some additional research on schoolbus seating to see if they cannot come up with a better concept and we are watching that research very closely.

Senator LAUTENBERG. Because it seems all too obvious that a child standing in the aisle or what have you in the event of an accident or even a quick stop could result in an injury, whereas otherwise if a child is seated, and I guess we are getting into the modification of behavior of children, but the fact of the matter is that sometimes we have to do that.

BREED AIRBAG SYSTEM

Several points in your testimony. You mention the Breed air system, which we are happy to hear because we think it is a good system, and also the fact that this company is located in New Jersey, and worked very hard to develop economic technology. What is the status of Breed's relationship with NHTSA altogether?

Ms. STEED. We are entering about the final phases of our development and testing. We have conducted some on-road tests and some sled tests. We have also conducted car-to-car tests. We are now looking at the results of some environmental testing, and that is the last we have to do before we actually put some of those cars on the road. We anticipate that that may occur in July of this year.

Senator LAUTENBERG. Using the Breed system?

Ms. STEED. Yes; actually putting the Breed system in about 200 police cars.

Senator LAUTENBERG. You have done enough testing to know that the Breed system obviously does work, and you would not be putting it in vehicles if you were not satisfied that the technology is sound.

Ms. STEED. No; we certainly would not.

NATIONAL DRIVER REGISTER

Senator LAUTENBERG. One last thing I wanted to ask you about, and that was the development of this information system which you described, an electronic switchboard on problem driver registration, national driver registration. I think it is an excellent idea. Would the States be rewarded in any way or recompensed in any way for the effort they make to get the system on line, because it involves a fair amount of expense?

Ms. STEED. In the law, we are required to select four pilot States, and essentially we fund most of the costs for those pilot States.

Senator LAUTENBERG. To then develop their own system? It is not simply the interconnect between this central switchboard, as you describe it.

Ms. STEED. I am going to ask Mr. Reagle to respond.

Mr. REAGLE. Many of the States have to upgrade their entire system, that is, hardware as well as software. And we have the proposals from several States in now. We are looking at those, but as you may remember there is an authorization of $2 million for the problem driver pointer system to go to the four States we select.

Senator LAUTENBERG. Are you also giving them some guidelines? Have you developed standards for systems?

Mr. REAGLE. Yes; the request for proposals that went out, spelled out very specifically both the hardware and software problems and what was needed, the scenario for the whole system.

Senator LAUTENBERG. You said $2 million?

Mr. REAGLE. Yes, sir; that was the authorization.

Senator LAUTENBERG. That probably will not do it all, but it is part of an encouragement.

Mr. REAGLE. I might add that the States are putting up some money obviously to do that, too.

Ms. Steed. I would also add that with the 10-percent set-aside for traffic records, we encourage the States to use that money to upgrade their systems in preparation for the problem driver pointer system.

Senator Lautenberg. I am reminded that a requirement in this program was established in 1982, and now we are a long time later, and just about to select four States to take part. What took so long?

Ms. Steed. That original schedule that was authorized by law did not contemplate a couple of things. One was the time that it would take for us to competitively bid and get a systems contractor to design the systems and another was the time it took to actually develop the software and systems design. This is a tremendously complicated effort trying to deal with all of the records that are involved here, and so forth.

I, like you, am impatient to get on with it, and we are not willing to sit back and take no action until we get through the pilot demonstration a couple of years from now. We have made some interim improvements. One of those is to provide overnight service to any State that wishes it and has compatible equipment to ours.

Senator Lautenberg. How do you get the information back? And you know I come out of the computer business. How do you get the computer back?

Mr. Reagle. Just by use of telephone, telecommunications.

Senator Lautenberg. Batch processing system is a bit antiquated, of course. But that does seem like——

Mr. Reagle. It is much better than the mail, though, which is the present system, so we are making progress.

LONG RANGE FATALITY TRENDS

Senator Lautenberg. Progress, ever so slowly. As you talked about the decline in fatality rate, you also notice that—you make mention in the report, Traffic Safety Trends in Forecast projecting highway deaths by 1990 to again reach the 50,000-lives-per-year level.

Are there any changes that you would recommend in safety regulations, State and Federal laws, to help us ensure that we do not have to reach that level again?

Ms. Steed. I think there are several things we can do. We continue to look at the vehicle questions and whether or not we can make vehicles safer. But I think one of the most important things we can do is to get all 50 States with safety belt laws.

Also, I think the passive restraints that are coming on line are going to help, and I think the increase in the child safety seat usage and correct safety seat usage is going to help enormously. Another is continued strong support for getting the drunk driver off the road. I think those two, occupant protection and the anti-drunk driving programs may make real strides in helping us.

Senator Lautenberg. So the forecast is predicated on no major change in the application of seatbelt passive restraints?

Ms. Steed. I believe that is correct, sir.

SUBMITTED QUESTIONS

Senator **Lautenberg**. OK, we thank you very much, you and your associates, for being with us today. We will insert the additional questions from Senator Andrews and other Senators at this point in the record.

[The following questions were not asked at the hearing, but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

OVERALL BUDGET

SENATOR ANDREWS: What are the major factors for this increase in the budget?

ANSWER: There are three components of our budget which comprise the growth in our FY87 budget request. The only significant growth in program activity is in the Occupant Protection Program where our request is for $6.25 million in FY 87 over a base FY 86 program of approximately $3 million. This increased level of activity will support the needs of the States to successfully implement MULs and to strengthen our educational outreach nationwide.

The second component of this increase is approximately $3.5 million to restore program areas NHTSA-wide to the levels that existed before the Gramm-Rudmann cuts consistent with the Secretary's desire to preserve a strong safety focus. These funds are necessary to continue to support a variety of safety initiatives spanning highway safety, vehicle research, enforcement, and international harmonization.

The third component of this increase is approximately $1 million which pays for increases in certain administrative costs such as Standard Level User Charges (GSA assessed space and rental costs) which have risen significantly and are not within our control.

SENATOR ANDREWS: Why can't the National Highway Traffic Safety Administration (NHTSA) find areas or programs to reduce spending rather than increasing spending?

ANSWER: The budget levels sought under the Operations and Research Appropriation in FY 1987 are a reflection of the Secretary's continuing interest in placing the highest priority on safety programs, and in protecting them, when possible, from budget reductions. The budget request continues to place emphasis on NHTSA's priority programs such as occupant protection and deterrence of drinking and driving.

While the Operations and Research Appropriation reflects growth in 1987 over the 1986 level, after deducting trauma research, funding requirements in 1987 for Section 402 and 408 grants are below levels appropriated in 1986. Taking the grant programs into account, NHTSA's total request for 1987 is about six percent below 1986.

SENATOR ANDREWS: A total of approximately $5.2 million is scheduled for demonstration programs in the areas of drunk driving and the National Driver Register. How much of this $5.2 million will go for each of these areas, and how much will be spent in other areas?

ANSWER: The drunk driving, or alcohol program, will use $2.15 million of the $5.2 million, and the National Driver Register $1.75 million. The remainder, or approximately $1.26 million will be used for programs in motorcycle safety and driver licensing, police traffic services, emergency medical services, management information, traffic records, management training, and comprehensive community programs.

SENATOR ANDREWS: How does this level of demonstration funding compare to fiscal years 1985 and 1986? (Please provide a chart listing answer by year, amount and activity.)

ANSWER: The following provides the yearly comparisons.

(dollars in thousands)

	FY 1985	FY 1986 (Sequestered)	FY 1987
Alcohol Program	1,632	2,147	2,152
Motorcycle Safety and Driver Licensing	159	175	165
Police Traffic Services	382	338	375
Emergency Medical Services	269	508	575
National Driver Register	2,058	1,617	1,751
Management Information Systems	128	100	95
State Traffic Records	10	25	10
Project Management Training	0	10	10
Comprehensive Community Program	0	65	29
Totals	4,638	4,985	5,162

SECTION 208 - NATIONAL OCCUPANT PROTECTION PROGRAM

SENATOR ANDREWS: How much in total is being spent for activities related to the National Occupant Protection Program? In the safety program area? In the research and analysis area?

ANSWER: The total contract funds being requested for these two areas in FY 1987 is $6.25 million -- $5 million in highway safety and $1.25 million in research and development. These are Section 403 funds spent for the development of materials and techniques to promote occupant restraint use.

A significant portion of the $110 million being requested in Section 402 grant funds will also be used by the States and local communities to conduct occupant protection programs supportive of the national program. Our estimate is that about 14 percent of Section 402 funds will be used for safety belt and child safety seat programs in FY 1987.

SENATOR ANDREWS: The budget justification (page 65) states that 23 percent of the general population currently uses seat belts and 56 percent of infants and children (birth to four years) are placed in child safety seats. On what basis was this estimate made?

ANSWER: Since 1974, the National Highway Traffic Safety Administration has conducted observations in 19 cities to track trends in safety belt and child safety seat usage. These data were collected at approximately 30 traffic intersections in each city. Although these cities are not considered a statistically representative sample, they are spread throughout the major geographic regions of the country and encompass a variety of climatic and driving conditions. The cities included in the survey are:

New England	Southwest	Mid-Atlantic
Boston	Houston	New York
Providence	Dallas	Baltimore
		Pittsburgh

North Central
Minneapolis-St. Paul
Chicago
Fargo-Moorhead

Southeast
Atlanta
Miami
Birmingham
New Orleans

West
Seattle
San Francisco
San Diego
Phoenix
Los Angeles

Data on driver use of safety belts are obtained through daytime observations of cars stopped at primary road intersections and freeway exits. The observational survey technique is the most reliable method available for assessing safety belt usage inside automobiles. It is a more accurate measure of safety belt use in the general population than, for example, measuring safety belt use among those killed or injured. Those killed or injured are less likely to wear safety belts than the population at large.

Child safety seat use information is obtained through similar observations at entrances and exits at major shopping centers in each city. With rare exceptions, the same sites in each city have been used throughout each data collection period. In addition, observations are made of cars parked in the shopping centers to assess correct and incorrect use of safety belts and tethers to secure child safety seats.

In a recent international occupant retraint conference of the Organisation of Economic and Cooperative Development (OECD), observational surveys such as these were recognized to be the preferred method for determining safety belt and child safety seat usage rates. The 19-city survey was recognised as being considerably more comprehensive and rigorous than those conducted by most foreign nations to measure restraint usage. In the OECD meeting, recommendations were made to standardize the surveys of the various nations and one of the comments made was that the methods used in the 19-city survey should be followed by other nations.

SENATOR ANDREWS: How do these percentages compare for the past three fiscal years (or calendar years) for which data is available?

ANSWER: The usage rates for safety belts and child restraints for 1983, 1984 and 1985 are as follows:

For the Period Ending:	Safety Belt Use	Child Restraint Use
Jan, 1983	11.3%	22.8%
July, 1983	13.8%	26.9%
Jan, 1984	13.9%	40.5%
July, 1984	14.3%	45.4%
Jan, 1985	15.3%	49.3%
July, 1985	19.4%	51.7%
Jan, 1986	23.3%	56.2%

SENATOR ANDREWS: In addition to the federal funds spent in operations and research on the protection program, how much in Section 402 Safety Grant funds did the States use in this effort in the past three fiscal years? (Please provide a table with each year listing the State and amount.)

ANSWER: The table of 402 funds used for occupant protection programs follows. Included are the earmarked amounts for Child Restraints (8% of 402 funds for FY 1985) and the 2% for Safety Belt Encouragement.

Section 402 Funds Used for Occupant Protection Programs
(in thousands of dollars)

State	FY 1983	FY 1984	FY 1985
Alabama	$ 80.2	$ 86.8	$ 196.7
Alaska	9.3	9.5	54.2
Arizona	54.3	84.5	168.7
Arkansas	91.9	21.7	237.3
California	833.0	1,255.1	1,469.3
Colorado	26.6	146.7	150.4
Connecticut	125.3	194.1	455.2
Delaware	16.6	33.3	56.0
District of Columbia	70.4	152.0	174.0
Florida	164.9	304.5	347.2
Georgia	45.7	45.7	320.0
Hawaii	49.2	68.4	141.0
Idaho	13.8	35.6	78.3
Illinois	85.5	238.7	891.9
Indiana	95.5	229.5	391.1
Iowa	79.2	55.3	152.6
Kansas	271.0	224.7	203.8
Kentucky	63.1	246.3	54.0
Louisiana	85.8	71.8	241.4
Maine	39.0	75.7	100.3
Maryland	28.9	281.9	321.8
Massachusetts	48.3	84.5	283.0
Michigan	358.6	251.8	719.7
Minnesota	153.5	207.9	323.6
Mississippi	191.5	35.7	343.7
Missouri	169.0	53.1	497.2
Montana	30.4	133.7	132.6
Nebraska	83.5	52.3	139.7
Nevada	59.5	62.0	56.9
New Hampshire	26.8	30.9	72.5
New Jersey	115.7	252.8	334.5
New Mexico	66.2	74.2	126.3
New York	120.0	119.9	677.0
North Carolina	441.1	147.8	249.5
North Dakota	24.4	53.7	93.3
Ohio	602.5	397.6	697.3
Oklahoma	159.9	200.9	271.7
Oregon	30.5	85.0	180.0
Pennsylvania	207.3	389.5	875.5
Puerto Rico	99.3	73.1	162.8
Rhode Island	9.5	22.2	87.3
Sec'y Of Interior	36.6	212.9	107.0
South Carolina	176.8	103.8	285.3
South Dakota	18.0	34.6	72.9
Tennessee	363.3	195.6	445.5
Texas	322.8	1,096.9	1,289.7
Utah	73.9	66.8	73.6
Vermont	16.9	15.8	60.9
Virginia	398.9	288.5	222.1
Washington	48.1	35.1	199.5
West Virginia	46.1	172.7	130.5
Wisconsin	58.2	235.9	186.3
Wyoming	9.6	62.5	54.2
Territories	0	12.3	148.2
TOTAL	$6,703.5	$8,824.9	$15,805.0

SENATOR ANDREWS: In addition to the Federal funds expended, how much is spent by private organizations and State and local authority in the occupant protection area?

ANSWER: We know that a substantial amount of private sector and State and local government resources are being applied in this area, but it is difficult to get a good basis for estimating the total.

When the 208 Automatic Crash Protection decision was announced in July 1984, the Secretary indicated that the private sector would make $20 million a year available in support of a safety belt education program. Exact information on how much has been spent by the private sector might best be obtained from Traffic Safety Now.

In addition to TSN, a number of other groups, communities, businesses, volunteer organization, etc. devote time and resources to safety belt programs. We are unable to provide a meaningful estimate of these resources.

SENATOR ANDREWS: It has been reported that Traffic Safety Now spends approximately $16 million a year to lobby State legislatures to pass mandatory seat belt use laws. Is that an accurate figure? Does National Highway Traffic Safety Administration (NHTSA) have an estimate as to how much this organization and other private organizations will spend in the occupant protection area?

ANSWER: Traffic Safety Now does not report the amounts it spends either for direct lobbying, for safety belt coalition funding, or for mandatory safety belt use law implementation.

We have very little information on the funding contributions being made by other private organizations. Based on data provided to us by several state highway safety agencies, however, NHTSA believes that the dollar value of the program support being provided through public interest organizations, civic and service group volunteer efforts, and private business, particularly at the community level, is substantial.

SENATOR ANDREWS: Two years ago in the spring hearings of 1984, you testified that seat belt usage was about 14 percent and in 1985 that seat belt usage was 15 percent, but it appears that we are still short of the 25 percent usage rate first predicted for the spring of this year. What are your latest estimates for usage? Where does NHTSA believe the usage rates will be by the end of this fiscal year, by the end of fiscal year 1987 and the outyears?

ANSWER: The 19-cities survey, which forms the basis for our trend data, is conducted twice a year. The most recent data was collected during the last six months of 1985 and was released in January. The surveys that will assess usage for the first six months of 1986 will be released in July, 1986 and will be a more accurate basis for estimating usage this spring.

Our latest estimate, based on the survey covering the last six months of 1985 is 23.3 percent for safety belt use and 56.2 percent for child safety seat use.

Predicting safety belt use for any period in the future depends on the accurate assessment of several important variables, including the number of states that will enact mandatory safety belt use laws, when those laws will be effective, how they will be enforced, and the effectiveness of education programs. We do not, however, see any reason to believe that the current trends will not continue.

SECTION 208 - NATIONAL OCCUPANT PROTECTION PROGRAM PASSIVE RESTRAINTS

SENATOR ANDREWS: A total of $6.25 million is requested for the occupant protection program. $5 million under highway safety and $1.25 under research and analysis. There is no increase for the passive education program. Why?

ANSWER: The goal of the passive protection education program has been to integrate passive education routinely in our ongoing occupant protection efforts. We have incorporated passive education in several of our programs, including our law enforcement training materials and the instructional guide which accompanies a number of our educational packages that are used with a variety of target groups. In addition, we have completed the development of two brochures which will be available to the Governors' Highway Safety Representatives, our regional offices, and the national groups who conduct programs under agreement with us.

We will continue to incorporate these educational materials in other programs as the opportunities arise.

The $500 thousand for passive education represents those expenditures for passive education efforts through incorporating passive education in our program. It includes as well the cost of developing educational materials.

In addition, there are a variety of other activities which support the agency's commitment to educating the public on passive protection and to develop the technology. This encompasses research to assess consumer reactions to passive systems which amounts to $400 thousand in FY 1987.

In FY 1987, the agency will also continue its program to monitor the GSA and police fleet air bag demonstration and to develop and demonstrate the Breed air bag technology. The total for this effort is $166 thousand in FY 1986 and in FY 1987 will be $400 thousand.

Thus, the total passives effort for the agency in FY 1987 is expected to be $1,300 thousand, substantially exceeding the amounts for FY 1986.

The totals for FY 1986 compared with FY 1987 follow:

	(000) FY1986	(000) FY1987
R&D Studies -		
Consumer responses to passives	$ 94	$ 400
Routine incorporation in ongoing efforts	500	500
Demonstration program	166	400
TOTALS	$760	$1,300

SENATOR ANDREWS: Given that seventeen States have enacted seat belt laws because of State, local and corporate efforts, why aren't more funds now being directed to educating the public on passive restraints? Please elaborate.

ANSWER: Enacting a safety belt use law is only one step in developing a successful safety belt program. Experience abroad demonstrates that enforcement and education are vital to saving as many lives as quickly as possible. We will continue to work closely with law enforcement groups, educators and other groups, and the states to assist them in safety belt use law implementation.

With passive protection coming on stream, we want to educate the public both on the need for occupant protection in general and on the specific features of passive protection. Our education effort and our technology development program will be increased in FY 1987 by $540 thousand over FY 1986.

SENATOR ANDREWS: Does NHTSA feel that the public is sufficiently aware of the pros and cons regarding passive restraints? If not, why not? If so, please elaborate.

ANSWER: We feel that there is a need to educate the public about passive restraints. The public has had little experience with these systems and has not received a great deal of specific information about them. Some preliminary information from a study now underway suggests that people do not know how these systems work and may have incorrect impressions about their effectiveness. There is a need for additional efforts in this area. That was, in part, reason for the phase-in of such systems and the rationale behind our request for funds for educational activities.

SENATOR ANDREWS: Does NHTSA feel that the public is sufficiently aware of the mechanics of and the types of passive restraints available or not available to it? If not, why not? If so, please elaborate.

ANSWER: As stated in the prior question, the public has not had any experience with passive restraint system, nor have they received much specific information about them. That was, in part, reason for the phase-in of such systems and the rationale behind our request for funds for educational efforts.

SENATOR ANDREWS: What has NHTSA learned from the auto fleet purchase program conducted with the General Services Administration?

ANSWER: Experience with the fleet has been positive. There have been 34 crashes involving air bag deployments. In all the deployment crashes, the air bag performed as designed. The GSA program also facilitated fleet purchases, further increasing the public's exposure to this technology.

SENATOR ANDREWS: Please provide for the Committee the results of that program to date.

ANSWER: The results of the program to date are included in the attached paper.

AIR BAG FIELD PERFORMANCE THROUGH 1985

In 1983 and 1984, the National Highway Traffic Safety Administration (NHTSA) undertook two air bag fleet programs. The purpose was to demonstrate that both original equipment and retrofit air bag systems would operate as intended in a crash.

The air bags in these fleets have performed well in service, providing injury mitigation. There have been no known cases where the air bags failed to deploy as designed and only one non-crash deployment (with no negative consequences).

The Air Bag Fleets

Since 1983, the agency has supported the development, procurement, and evaluation of driver air bag equipped vehicles in Federal government and State police fleets. NHTSA financed the development and installation of 539 retrofit air bag systems in state police vehicles, and joined the General Services Administration (GSA) in the purchase of 5,000 1985 Ford Tempos equipped with driver air bags for use as Federal government fleet vehicles. The Department of Defense also purchased 300 for its use.

Air bags are designed to protect drivers in frontal collisions in which the change in velocity is greater than about 10 miles per hour (mph): speeds at which serious injuries may occur. Both the car makers and NHTSA recommend that they be used with the available safety belts.

In these air bag fleets:

- o There were no significant injuries in any of the deployment crashes. The drivers of these cars had no injury or minor injury. Only 3 had moderate injuries (all of which were mild concussions).
- o The most severe crash was a frontal collision with a velocity change of approximately 25 mph. The driver received only a mild concussion.
- o In all crashes where the air bags did not deploy, the crashes were of such a low severity that the air bags were designed not to deploy.
- o There was one air bag deployment in the absence of a collision. It occurred in one of the police air bag retrofit cars. In this case, the air bag readiness indicator light on the dashboard gave adequate warning of a fault in the electrical system, but no action was taken. The bag deployed while the car was parked with no occupant.

This year, the Agency intends to equip approximately 200 police cars with a new retrofit air bag technology. These units have a mechanical crash sensor rather than the electro-mechanical sensors used in previous fleets.

SENATOR ANDREWS: In what ways is NHTSA encouraging or promoting similar types of programs? That is, please describe NHTSA's involvement with other auto fleet purchase programs where air bags or other passive restraint features are encouraged.

ANSWER: NHTSA is (1) conducting a demonstration program to install an all-mechanical air bag system, which has the potential of being less costly than conventional systems, in a limited number of police vehicles; (2) providing information to fleet purchasers on the success of the current programs; and (3) actively encouraging fleet purchasers to acquire passive restraint equipped cars.

SENATOR ANDREWS: Does NHTSA believe that it would be advisable to make passive restraints a requirement in autos purchased by the Government? If so, why? If not, why not?

ANSWER: We would like to see GSA purchase vehicles equipped with passive restraints in volumes that at least equal the percentages required during the FMVSS 208 phase-in (i.e., 10 percent starting Sept. 1, 1986, 25 percent starting Sept 1, 1987, and 40 percent starting Sept. 1, 1988.

SENATOR ANDREWS: Does the amount requested for FY 1987 for the passive systems education program, $500,000, under highway safety fully reflect efforts in this area?

ANSWER: At least $500 thousand will be devoted to efforts to educate the public on passive protection. Beyond that, the agency expects to spend an additional $800 thousand to assess consumer attitudes towards passives and to develop the technology.

In addition to these direct efforts, a principal result of all of our programs, including implementing belt use laws, is to sensitize the public on the need for occupant protection of all types. In helping to increase safety belt use and compliance with belt use laws, we believe a better climate is created for the public to accept passive protection. In addition, the program will also convince the public of the need to use safety belts with air bags and not to unfasten or otherwise defeat passive belts.

SENATOR ANDREWS: How much in additional funds is spent in the other categories, (corporate employer programs, media, evaluation and planning, etc.) for passive education efforts? Please answer by area and amount.

ANSWER: NHTSA's goal is to routinely incorporate passive protection education in our ongoing programs. In FY 1987, we expect to devote at least $500 thousand in the areas of employers' programs, and working with national organizations, states and communities. Since we intend to incorporate passive protection into all of our eduction programs, we cannot give a precise estimate of how much beyond the $500 thousand would be expended.

For example, the business community is one of the most important intermediaries for making the public familiar with passive technology. In FY 1987, the increased funding in the occupant protection area will permit an expansion of the existing program which involves selling top management on the benefits of employee belt programs and developing and distributing educational materials. As a part of the workshop activity in this area, 2,000 motor vehicle fleet administrators will have a greater awareness of automatic crash protection issues and will be encouraged to purchase passive protection for their fleets. Also, the automobile manufacturers will be doing a significant amount of advertising on passive restraints.

SENATOR ANDREWS: What is the total amount of research and analysis funds that are planned in FY 1987 in the area of passive systems?

ANSWER: We expect to spend about $800,000 in FY 1987 on passive restraint systems. This includes the maintenance and support of retrofit systems in police fleets, and the evaluation of the performance of passive systems. It also includes studying the publics' reaction to passive systems and plans for educating the public as to how passive systems really work. In addition, the program will also explain the effectiveness of passive systems.

SENATOR ANDREWS: Does this research expect to cover actual passive systems experience? In what areas, and how much is expected to be obligated?

ANSWER: This research will cover actual passive systems experience and more. The $800 is broken down as follows: $200 will be expended to monitor and maintain the retrofit systems in the existing fleets; $200 will be spent to evaluate the performance and protection capability of passive systems; and $400 will be used to study the public's reaction to passive systems and develop appropriate means to explain how passive systems work and the effectiveness of passive sytstems.

SENATOR ANDREWS: How much of the research money will be devoted to attitudinal surveys? How will these be conducted? Please elaborate.

ANSWER: We are currently conducting a survey at a cost of approximately $85,000. It will provide information on what the public now knows about passive restraints. In the future we will be conducting research on public reaction to all types of passives, including air bags, automatic belts, and any other new technology. Some of this research will require survey data, but at this time we do not have precise cost estimates. The results of this work will help assess consumer responses to passive systems.

MANDATORY USE LAWS

SENATOR ANDREWS: How many States have passed mandatory use laws for seat belts? (For the record, please provide a listing of all States' seat belt law implementation, i.e., including passed, defeated, introduced or in State committees.)

ANSWER: As of March 10, 1986, safety belt use laws have been enacted in 19 States and the District of Columbia. In addition, belt use bills have passed the Utah and the Washington legislatures, and both are awaiting their Governors' signature. In

23 additional States, bills have been introduced during the 1986 legislative session or carried over from 1985. A list of the requested information is submitted for the record.

STATUS OF MANDATORY SAFETY BELT LEGISLATION
As of March 10, 1986

State	Enacted Prior Yr	Enacted 1986	Failed 1986	1986 Legislative Status Pending
Alabama				Introduced in Senate
Alaska				Carried Over
Arizona				Passed House Committee; for House vote
Arkansas*				
California	X			
Colorado			X	
Connecticut	X			
Delaware				Carried over
Dist of Columbia	X			
Florida				Not yet in session; Prefiled in Senate
Georgia			X	
Hawaii	X			
Idaho				Passed House
Illinois	X			
Indiana	X			
Iowa		X		
Kansas				Passed Senate
Kentucky				Introduced in House
Louisiana	X			
Maine				Introduced in Senate
Maryland				Passed Senate; in House Judiciary Committee
Massachusetts	X			
Michigan	X			
Minnesota		X		
Mississippi			X	
Missouri	X			
Montana*				
Nebraska	X			
Nevada*				
New Hampshire			X	
New Jersey	X			
New Mexico	X			
New York	X			

Status of Mandatory Safety Belt Legislation (continued)

State	Enacted Prior Yr	Enacted 1986	Failed 1986	1986 Legislative Status Pending
North Carolina	X			
North Dakota*				
Ohio		X		
Oklahoma	X			
Oregon*				
Pennsylvania				Passed Senate in 1985; carried over to House
Rhode Island				Carried over
South Carolina				Introduced in House
South Dakota			X	
Tennessee				Carried over
Texas*	X			
Utah				To Governor for signature
Vermont				Passed House; for Senate vote
Virginia			X	
Washington				To Governor for signature
West Virginia			X	
Wisconsin				Passed Senate; to Assembly
Wyoming				
TOTALS	16 + DC	3	7	18

*No regular session this year

SENATOR ANDREWS: What percentage of the population is covered by the states that have already passed seat belt legislation?

ANSWER: As of March 10, 1986, states representing approximately 60.8 percent of the population have passed seat belt laws. (Does not include legislation passed, but not yet signed by the Governor.)

SENATOR ANDREWS: Do any of the state laws meet the minimum criteria established by regulation in the Federal Register of July 17, 1984 (which implements the July 11th, occupant protection program)? What percentage of the population is covered by such laws?

ANSWER: The U.S. Court of Appeals recently requested additional briefs and oral argument in the pending challenge to the 1984 rule. While the matter is before the Court, we prefer not to comment specifically on the state laws.

States representing approximately 60.8 percent of the population have currently passed seat belt laws. If we exclude the laws in California and the District of Columbia, since by their own terms they go out of existence if the Secretary were to rescind FMVSS 208, that number drops to 49.7 percent of the population.

SENATOR ANDREWS: Has the Department ruled on any of these state laws meeting the minimum federal criteria? If not, why not?

ANSWER: Standard No. 208 provides for only one formal determination; that is in the event that the Secretary determined that two-thirds of the population were covered by mandatory usage laws satisfying the criteria. Earlier this year the Secretary had planned to give "informal advice" to the States regarding the provisions of their laws. However, in view of the fact that the matter is back before the Court, we are not going to comment at this time.

SENATOR ANDREWS: When will the Department be ruling on the already passed state laws? (Please list each state and estimate date of ruling.)

ANSWER: As discussed previously, the Department does not plan to comment specifically on each state law while the litigation challenging the Department's authority to link state safety belt use laws and the passive restraint requirement is pending before the U.S. Court of Appeals. Since we do not know how long this matter will be pending before the court, we cannot estimate the date we intend to provide states with informal advice about their laws.

SENATOR ANDREWS: What resources is NHTSA devoting to the review of state mandatory use laws? How many people? Which office? How much money?

ANSWER: The Office of Occupant Protection has a staff of eighteen. However, the agency and the Department have several offices involved in monitoring the progress of state mandatory safety belt use laws and in reviewing the laws that have been enacted. For example, the Office of Occupant Protection in our Traffic Safety Programs division provides technical assistance to states considering belt use laws, and provides additional technical assistance to states that have enacted MULs (particularly in the area of developing adequate education and enforcement programs). NHTSA's 10 Regional offices also work closely with states considering MULs or that have enacted MULs to provide on-the-spot technical assistance. Since occupant protection in general and encouragement of state MULs in particular is a very high priority of NHTSA, additional staff time from other NHTSA and DOT offices, including the Office of Plans and Policy, Office of Chief Counsel, Office of Public Affairs, Office of the Administrator and Office of the Secretary, is spent on the occupant protection program. Because of the large number of agency and Departmental staff that work, from time-to-time, on the issue of MULs, it is not possible to identify precisely the amount of money spent on or the number of employees involved in this high priority effort.

SENATOR ANDREWS: A January 19, 1986 New York Times article quoted you, Diane Steed stating "Not all of the six are present in every law". This was apparently in reference to the six Federal standards that must be met if the government is to drop its passive restraint requirements. If you are able to make this assessment unofficially, what prevents the Department from making an official announcement? Please elaborate.

ANSWER: As I mentioned earlier, in light of the recent request from the U.S. Court of Appeals for additional briefs and oral agrument, we are not going to comment specifically on each state law.

SENATOR ANDREWS: What is the status of the court suit brought by State Farm Mutual Automobile Insurance Company against the Department challenging the legality of the Department's offer to drop the air bag rule if enough states adopt seat belt laws meeting Federal criteria?

ANSWER: The litigation concerning the validity of the Secretary's July 11, 1984, decision requiring phased-in installation of passive restraints in new passenger cars manufactured on or after September 1, 1989 unless states containing two-thirds of the Nation's population pass qualifying mandatory safety belt use laws is still pending. Oral argument was held last March, but one of the judges on the original panel died before the case was decided. The case was reargued on March 11, 1986, pursuant to a January 24, 1986 order from the Court that also requested all parties to file supplemental briefs addressing "the developments in the States" by February 28. Separate supplemental briefs were filed by petitioners State Farm et al, and New York State, as well as by the Department.

The Secretary's decision on passive restraints provides that the automatic restraint requirement contained in the regulation will go into effect unless the Secretary determines that two-thirds of the population is covered by qualifying MULs (49 C.F.R. #571.208 S4.1.4; S4.1.5.1). Under the terms of the Rule, the Secretary must determine whether two-thirds of the population is covered no later than April 1, 1989.

GENERAL MOTORS INSURANCE POLICY

SENATOR ANDREWS: The Washington Post January 27, 1986, reported that the General Motors Corporation's promise to pay $10,000 to heirs of anyone killed while wearing a seat belt in a late-model GM car has cost the company $2.4 million during the past 21 months. This seems like a lot. Do you agree? If not, why not? Please elaborate.

ANSWER: GM has estimated that over 200 lives have been saved by this program. Although we do not have information on the effect GM's program has had on usage, we do have research and real world data that shows that incentive programs work. Even with modest assumptions of usage, 240 fatalities does not detract from the success of this program.

The General Motors program was initiated on April 16, 1984. The program specified that, for every new GM car and light truck, GM would include, at no extra cost, a one year insurance certificate which will pay $10,000 to the estate of any occupant who suffers fatal injuries while wearing a GM safety belt.

In 1984, there were 18.8 passenger car occupant fatalities for every one billion miles of vehicle travel in the entire passenger car fleet. In January of 1986, GM stated that the vehicles in their program had been driven 112 billion miles. This is the mileage of all vehicles - those with occupants belted and those with unrestrained occupants. The mileage distribution between these two is not known. If, however, one assumes that belts were used by 20% of the occupants, and hence in 20% of the mileage, the fatality rate for GM's belted occupants would be 10.7 passenger car occupant fatalities per billion miles - substantially below the 1984 fleet value of 18.8.

Although the 20% usage estimate may be reasonable, it is important to emphasize that the belt use rate in GM vehicles is not known and therefore it is impossible to be precise in assessing the results of the program.

SENATOR ANDREWS: Relative to the 240 persons killed, how many were saved during this time period because they were wearing seat belts?

ANSWER: As indicated in the response to the above question, without data concerning the usage of the belts and the number of unbelted fatalities, analysis of the GM experience is impossible.

In November 1985, GM estimated that, as of that date, the safety belt use in vehicles covered by their insurance program had saved nearly 200 lives. General Motors press releases follow describing this program.

GENERAL MOTORS PRESS RELEASES

Tuesday, April 16, 1985

DETROIT – Citing the continuing need to encourage motorists to "buckle up," J. J. MacDonald, president of Motors Insurance Corporation, the insurance arm of General Motors, announced today the availability of a new, separate $10,000 safety belt user insurance program in 39 states. Regulatory approvals are being sought in the remaining jurisdictions. The coverage will be underwritten by MIC Life Insurance Corporation and MIC General Insurance Corporation in the United States and MIC Life Insurance Corporation in Canada. This program allows GM car owners with GM's one-year $10,000 safety belt certificates to buy future coverage. It is also available to any other motorist in the United States whose automobile is equipped with manufacturer-installed safety belts.

On April 16, 1984, General Motors Corporation began providing safety belt user insurance for a one-year period at no cost to purchasers of all new GM passenger cars and light trucks sold. Similar coverage was made available by General Motors of Canada, Ltd.

Since the one-year coverage first provided by General Motors Corporation in April 1984 will start expiring today for some GM customers, MIC's program will allow these individuals to purchase coverage of this type for one to three years for a nominal fee. The company also announced that this low cost coverage is now available to all car owners in the United States with manufacturer-installed safety belts and not just GM customers. "By so doing, MIC hopes to broaden the base of confirmed safety belt users on America's roads," Mr. MacDonald stated.

"We are convinced by the statistics," Mr. MacDonald adds, "that motorists who wear their safety belts greatly improve their chances to survive and avoid serious injury in vehicular accidents. If a motorist covered by this program does not survive a vehicle accident while wearing a safety belt, we will pay $10,000 to his or her estate. But the main idea is simply to get more people to buckle up."

Mr. MacDonald stated further that, "the program was developed primarily to respond to requests from those individuals who were previously provided similar coverage by General Motors Corporation under their safety belt user program." In states which have approved the program, coverage will be available for annual terms of 1, 2 or 3 years at premiums of $6.25, $9.75 and $13.25 respectively to all consumers who apply. Applicants need not be MIC auto insurance customers. The policy provides the insured and any relative who is a resident of the insured's household with $10,000 coverage in case of accidental death resulting from injuries sustained in an automobile accident while riding in any automobile and wearing a restraint device or child restraint device as defined in the policy. Additionally, the same coverage is provided guest passengers riding in the insured's vehicle.

Consumers interested in securing this coverage may request enrollment or application forms by writing to:

MIC General Insurance Corporation
P.O. Box 37360
Detroit, MI 48237

# # #

TUESDAY, NOVEMBER 26, 1985

DETROIT -- General Motors has enlisted a different kind of general - famed test pilot and World War II ace, Brig. Gen. Chuck Yeager, ret. - to underscore the importance of wearing automotive safety belts and to remind motorists of the no-cost $10,000 safety belt user insurance offered exclusively on all GM cars and light trucks.

GM says that while it is difficult to measure how much the 19-month program has increased safety belt usage, it estimates that belt usage in the GM vehicles covered by the insurance has saved nearly 200 lives and prevented thousands of injuries, many of which would have been serious.

Gen. Yeager, first aviator to break the sound barrier... is featured in a new series of radio, television and magazine ads for the highly-acclaimed GM insurance program. His message: "GM has increased the value of using a car's safety belts."

"We chose Gen. Yeager to dramatize the link between a pilot's dependence on safety belts and the need for the driver and passengers to buckle-up in cars," said John J. MacDonald, president of Motors Insurance Corp., the GM insurance affiliate administering the program.

"We're using the ads heavily over Thanksgiving and through Christmas and New Year's when the reminder to use safety belts in heavy holiday traffic is particularly important," Mr. MacDonald said. "Over the next two months, the ads will have 700 million individual impressions... 85 to 90 percent of adults will be reached four or five times."

Mr. MacDonald said the safety belt insurance is "successfully achieving its goal of expressing the concern of GM and its dealers for the safety of our customers and the faith we have in the protection offered by safety belts if they will wear them."

He said that about 9.8 million GM vehicles have been delivered since GM announced that beginning April 16, 1984, it would include at no extra cost with every new GM car and light truck sold in the U.S. and Canada a one-year insurance certificate which will pay $10,000 to the estate of any occupant who suffers fatal injuries while wearing a GM safety belt. GM is the only automaker to provide this coverage.

"It is difficult to measure how much safety belt usage has been increased by the program," Mr. MacDonald said. "But based on our claims experience to date, we estimate that safety belt use in vehicles covered by the GM insurance program has saved nearly 200 lives and has prevented thousands of injuries, many of which would have been serious."

He said that even though the vehicles sold since the inception of the program have now covered more than 93 billion miles, GM has thus far paid only 214 death claims. "While one death is too many, this number is relatively small in proportion to the number of vehicles and miles driven," he said.

Mr. MacDonald noted that since the program began, 16 states and the District of Columbia have passed mandatory safety belt laws. "We hope that publicity generated by the GM insurance program has helped in adoption of these laws — which GM strongly supports — and will encourage enactment of similar laws in other states," he said. "The life-saving potential of safety belts is universally available today because belts are in virtually all cars on our highways."

He said GM has had a number of commendations on the program from the National Safety Council, the National Highway Traffic Safety Administration and doctors as well as dealers and customers.

The $10,000 safety belt user insurance certificate is placed in the glove box of each new GM car and light truck together with owner information and the vehicle warranty. Coverage begins on the date the vehicle is registered and continues for one year, regardless of any change of ownership. Coverage for succeeding years is available from GM's insurance affiliate.

The insurance covers any person occupying a new GM vehicle with the permission of the owner. In the case of children too small to be restrained by safety belts alone, coverage is extended if a child restraint device approved by the National Highway Traffic Administration is properly secured at the time of an accident. Determination of whether seat belts were in use at the time of the accident has been based primarily on the official accident report.The program also covers vehicles sold to fleets.

Here are excerpts from Gen. Yeager's commercials:

o From a radio commercial: "Just about the last place I'd want to be rattling around is the cockpit of an aircraft on the short end of a dogfight or on the other side of the sound barrier. Any pilot I've flown with would consider the lap belt and shoulder harness to be an important part of his personal life insurance."

o As a jet trainer executes high performance maneuvers on the television screen, Gen. Yeager's voice: "There are old pilots and bold pilots, but they say there are no old, bold pilots." After he lands, the camera follows him to a waiting Corvette as he says: "So when I buckle up in the cockpit, I'm wearing plenty of life insurance. Now when you buckle up you've got $10,000 worth of life insurance at no extra cost. A one-year Life Belt certificate from MIC General, the insurance people at GM, comes with every new GM car or light truck." Fastening his safety belt, he concludes: "Buckle your life belt!"

In the United States, the insurance certificate is from MIC General Insurance Corp. In Canada, coverage is provided by MIC Life Insurance Corp.

SENATOR ANDREWS: Has anyone estimated if air bags would have made a difference in the fatalities that did occur? If so, what were the results of that analysis?

ANSWER: To our knowledge, no one has conducted such an analysis.

SENATOR ANDREWS: Are other auto manufacturers considering similar types of programs?

ANSWER: We know of no other auto manufacturers who are considering similar programs. However, in addition to General Motors, which provides a $10,000 benefit program for new car purchasers wearing a safety belt when fatally injured in a crash, other organizations providing financial incentive programs for employees and/or policyholders who are killed or injured in a crash while wearing a safety belt include the following:

The U. S. Postal Service will pay $10,000 to the estate of any USPS driver who is killed in an on-the-job motor vehicle accident while wearing a safety belt.

Insurance companies offering financial incentives to policyholders who buckle their safety belts include:

- o State Mutual Life Assurance Company of America, Worcester, Massachusetts, offers what they call a 'life benefit' by waiving its medical deductible payments on group health insurance policies for insured drivers or passengers injured while wearing their safety belts.
- o Kentucky Central Life Insurance Company, Lexington, Kentucky, will increase the accidental loss benefit by 10 percent for owners of a Kentucky Central life insurance policy with an accidental death provision, provided the insured person was wearing a safety belt properly when involved in an motor vehicle crash.
- o USAA provides $10,000 to the estate of policyholders killed in a motor vehicle crash while wearing a safety belt;
- o Nationwide Mutual Insurance Company, Columbus, Ohio, provides an added $10,000 death coverage in all States and double medical payments coverage in most States, at no extra cost, for policyholders and their passengers who are secured by safety belts when involved in a motor vehicle crash. The extra protection also is provided to children secured in approved safety seat systems.
- o J. C. Penney Casualty Insurance Co., Indianapolis, Indiana, offers a bonus to safety belt users of a 50% increase in medical payments coverage with no additional premium charge.

Companies offering financial incentives to employees for safety belt use during on- or off-the-job motor vehicle operation include:

- o The Dillon Food Store Chain, a subsidiary of the Kroger Company provides $10,000 to the estate of any employee who is fatally injured in a crash while wearing a safety belt.
- o Southwestern Bell Telephone Company pays $10,000 to the beneficiary or estate of any employee fatally injured while wearing a safety belt.

- o Preston Trucking Company, Glen Burnie, Maryland, offers $10,000 to the beneficiary or estate of employees fatally injured while wearing a safety belt.
- o Rockwell International, Pittsburgh, Pennsylvania, provides $10,000 to the estate of employees fatally injured during motor vehicle operation when wearing a safety belt.

CORPORATE AVERAGE FUEL ECONOMY (CAFE)

SENATOR ANDREWS: To what level have petitioners asked NHTSA to lower the existing standards?

ANSWER: General Motors and Ford, the two petitioners requesting reduction of passenger automobile fuel economy standards, have requested that the standard be lowered from 27.5 miles per gallon (mpg) to 26.0 mpg.

SENATOR ANDREWS: The current level for the 1986 model year cars is 26 miles per gallon. Is it likely that this will be the standard for the next two model years?

ANSWER: The agency has not made a decision on the level of the passenger car fuel economy standards for model years 1987 and 1988. On January 16, 1986, NHTSA proposed to amend the existing 27.5 mpg 1987-88 passenger automobile fuel economy standard to a level between 26.0 mpg and 27.5 mpg. The agency is concerned that the current 27.5 mpg standard for each of those years may be above the "maximum feasible" fuel economy level achievable in those years. In particular, NHTSA believes that 27.5 mpg may no longer be "economically practicable" for those model years. Public comments are due on our 1987-88 proposal by March 24, 1986. After the close of the comment period, the determination of the final standards will be made in accordance with the statutory requirement of setting standards at the maximum feasible level, considering technological feasibility, economic practicability, the effect of other Federal motor vehicle standards, and the need of the Nation to conserve energy.

SENATOR ANDREWS: What were the CAFE levels for Chrysler, Ford and General Motors for model years 1983, 1984 and 1985? How did this compare with the standards for those model years?

ANSWER: The CAFE values are compared with the appropriate passenger automobile fuel economy standards in the table below. For each of the three model years, Chrysler exceeded the relevant passenger automobile standard. For model year 1983, GM and Ford used "carryforward" credits for compliance. For model year 1984, Ford used "carryforward" credits for compliance, while GM used both "carryforward" and "carryback" credits. For model year 1985, preliminary data indicate that both GM and Ford had CAFE levels below the 27.5 mpg standard. The agency is awaiting final data from EPA.

Model Year 1983	Standard	CAFE
Chrysler	26.0	26.9
Ford		24.3
GM		24.0

Model Year 1984	Standard	CAFE
Chrysler	27.0	27.8
Ford		25.8
GM		24.9

Model Year 1985	Standard	CAFE (prelim.)
Chrysler	27.5	27.9
Ford		26.3
GM		25.5

SENATOR ANDREWS: What are NHTSA's estimates for model year 1986 for these manufacturers?

ANSWER: In their pre-model year reports submitted to the agency, the companies projected the following model year 1986 CAFE estimates for their passenger automobile fleets: Chrysler - 27.7 mpg, Ford - 26.4 mpg, and GM - 26.2 mpg. Ford's projection was subject to certain additional adjustments, risks and opportunities. We note that the manufacturers' estimates of model year 1986 CAFE changed several times during 1985, and that there is considerable uncertainty about CAFE estimates even as late as the time pre-model year reports are submitted, particularly when gasoline prices are rapidly changing.

SENATOR ANDREWS: By manufacturer, by year, what CAFE penalties were assessed and what credits were earned by these manufacturers since the law has gone into effect?

ANSWER: No CAFE penalties have been assessed against General Motors, Ford Motor Company, or Chrysler since the law went into effect. The tables that follow indicate penalties and credits earned in each specific year through model year 1984. DOT has not yet received the final data from EPA for Model Year 1985. The final sales figures for Model Year 1986 are not yet known. Computation of penalties or credits earned for these years would be premature. Any penalties indicated in the tables can be offset by credits earned in the three years preceding ("carry-forward") or following ("carry-back") the year for which a penalty is indicated.

MANUFACTURER	FLEET	MODEL YEAR	PENALTY/CREDIT
Chrysler	Domestic Passenger Car	1978	$ 23,100,280
Chrysler	Import Passenger Car	1978	58,036,860
Chrysler	Domestic Passenger Car	1979	72,777,750
Chrysler	Domestic Truck	1979	6,586,350
Chrysler	Import Passenger Car	1979	72,606,695
Chrysler	Domestic Passenger Car	1980	72,066,590
Chrysler	Domestic Truck - 2 Wheel Drive	1980	5,177,750
Chrysler	Domestic Truck - 4 Wheel Drive	1980	88,995
Chrysler	Import Passenger Car	1980	99,773,680
Chrysler	Import Truck - 2 Wheel Drive	1980	31,684,530
Chrysler	Domestic Passenger Car	1981	179,484,240
Chrysler	Domestic Truck - 2 Wheel Drive	1981	6,480,760
Chrysler	Domestic Truck - 4 Wheel Drive	1981	109,350
Chrysler	Import Passenger Car	1981	75,723,935
Chrysler	Import Truck - 2 Wheel Drive	1981	13,704,190
Chrysler	Domestic Passenger Car	1982	109,653,120

Chrysler	Import Passenger Car	1982	44,845,440
Chrysler	Domestic Truck	1982	10,586,760
Chrysler	Import Truck - 2 Wheel Drive	1982	11,743,160
Chrysler	Import Truck - 4 Wheel Drive	1982	4,897,500
Chrysler	Domestic Truck	1983	- 13,040,580
Chrysler	Import Truck - 4 Wheel Drive	1983	3,297,280
Chrysler	Import Truck - 2 Wheel Drive	1983	8,198,400
Chrysler	Import Passenger Car	1983	35,700,850
Chrysler	Domestic Passenger Car	1983	33,648,660
Chrysler	Import Passenger Car	1984	39,949,530
Chrysler	Import Truck - 2 Wheel Drive	1984	13,162,440
Chrysler	Import Truck - 4 Wheel Drive	1984	4,080,970
Chrysler	Domestic Passenger Car	1984	39,575,000
Chrysler	Domestic Truck	1984	- 30,435,680
Ford	Domestic Passenger Car	1978	52,095,140
Ford	Import Passenger Car	1978	48,931,290
Ford	Domestic Passenger Car	1979	24,580,490
Ford	Domestic Truck	1979	9,641,450
Ford	Import Passenger Car	1979	2,515,200
Ford	Domestic Passenger Car	1980	205,422,370
Ford	Domestic Truck - 2 Wheel Drive	1980	30,750,480
Ford	Domestic Truck - 4 Wheel Drive	1980	2,519,000
Ford	Import Passenger Car	1980	48,808,050
Ford	Import Truck - 2 Wheel Drive	1980	32,115,730
Ford	Domestic Passenger Car	1981	143,555,265
Ford	Domestic Truck - 2 Wheel Drive	1981	42,056,730
Ford	Domestic Truck - 4 Wheel Drive	1981	3,496,010
Ford	Import Passenger Car	1981	1,859,220
Ford	Import Truck - 2 Wheel Drive	1981	36,020,675
Ford	Domestic Passenger Car	1982	68,685,000
Ford	Import Passenger Car	1982	388,585
Ford	Import Truck - 2 Wheel Drive	1982	12,034,790
Ford	Domestic Truck	1982	- 9,723,520
Ford	Domestic Passenger Car	1983	- 109,422,880
Ford	Import Truck - 2 Wheel Drive	1983	132,240
Ford	Domestic Truck - 4 Wheel Drive	1983	- 2,231,595
Ford	Domestic Truck - 2 Wheel Drive	1983	5,805,360
Ford	Import Passenger Car	1983	360,500
Ford	Domestic Truck - 4 Wheel Drive	1984	- 1,664,180
Ford	Import Truck - 2 Wheel Drive	1984	424,840
Ford	Domestic Truck - 2 Wheel Drive	1984	40,662,115
Ford	Import Passenger Car	1984	457,090
Ford	Domestic Passenger Car	1984	- 123,739,380
General Motors	Domestic Passenger Car	1978	259,440,050
General Motors	Domestic Passener Car	1979	25,511,810
General Motors	Domestic Truck	1979	12,403,875
General Motors	Domestic Passenger Car	1980	586,044,030
General Motors	Domestic Truck - 2 Wheel Drive	1980	36,362,160
General Motors	Domestic Truck - 4 Wheel Drive	1980	5,081,445
General Motors	Import Truck - 2 Wheel Drive	1980	34,082,540
General Motors	Import Truck - 4 Wheel Drive	1980	16,700,025
General Motors	Domestic Passenger Car	1981	360,321,120
General Motors	Domestic Truck - 2 Wheel Drive	1981	54,352,980
General Motors	Domestic Truck - 4 Wheel Drive	1981	6,487,920
General Motors	Import Truck - 2 Wheel Drive	1981	29,053,850
General Motors	Import Truck - 4 Wheel Drive	1981	10,300,800
General Motors	Domestic Passenger Car	1982	102,069,180

General Motors Domestic Truck - 2 Wheel Drive	1982	101,470,440
General Motors Domestic Truck - 4 Wheel Drive	1982	13,797,600
General Motors Import Truck - 2 Wheel Drive	1982	2,080,595
General Motors Import Truck - 4 Wheel Drive	1982	1,120,500
General Motors Domestic Passenger Car	1983	- 350,399,700
General Motors Domestic Truck - 2 Wheel Drive	1983	30,368,150
General Motors Domestic Truck - 4 Wheel Drive	1983	35,654,250
General Motors Domestic Passenger Car	1984	- 508,705,995
General Motors Domestic Truck - 2 Wheel Drive	1984	- 15,471,280
General Motors Domestic Truck - 4 Wheel Drive	1984	23,552,900

In addition to the companies mentioned previously, the following foreign manufacturers failed to meet the level of the standards for the years shown below. Only Jaguar has paid a penalty. For the other manufacturers, credits may be available from prior or future model years to offset potential penalties. For ease of understanding, only failures to meet the level of a standard are shown.

Jaguar	Passenger Car	1981	$ - 536,400
Jaguar	Passenger Car	1982	- 2,260,250
Alfa-Romeo	Passenger Car	1983	- 21,430
Ferrari	Passenger Car	1983	- 391,250
Jaguar	Passenger Car	1983	- 4,297,260
Maserati	Passenger Car	1983	- 41,080
Peugeot	Passenger Car	1983	- 235,940
Alfa-Romeo	Passenger Car	1984	- 60,000
AM General-LTV	2 Wheel Drive Truck	1984	- 697,200
Ferrari	Passenger Car	1984	- 309,330
Jaguar	Passenger Car	1984	- 5,958,020
Mercedes-Benz	Passenger Car	1984	- 3,115,280
Peugeot	Passenger Car	1984	- 1,926,300
Saab	Passenger Car	1984	- 1,650,550

SENATOR ANDREWS: By lowering the standard for model year 1986 how much in penalties was avoided by these manufacturers? (Please provide the difference between the 27.5 mpg standard versus the 26.0 mpg standard versus the estimated level each manufacturer will reach on model year 1986 automobiles.)

ANSWER: The data available from the yet-to-be-completed 1986 model year indicate that the potential penalty for General Motors, without considering potential carry-back credits, would have been approximately $314,600,000 for its domestic passenger car fleet. General Motors is projected to comply with a CAFE level of 26.0; therefore, General Motors would incur no penalty.

The potential penalty for Ford, without considering carry-back credits, would have been approximately $104,090,000 for its domestic passenger car fleet. Ford is projected to comply with a CAFE level of 26.0; therefore, Ford would incur no penalty.

ALCOHOL SAFETY INCENTIVE GRANTS - SECTION 408

SENATOR ANDREWS: Total authorization for the Section 408 Program is $125 million, with funds available in the year authorized plus three additional years. Will all of the FY 1983 funds be obligated by the end of this fiscal year (1986)? Will any lapse?

ANSWER: Of the total authorization of $125 million, $25 million was authorized for FY 1983. Cumulative obligations of $11.5 million have been charged against the FY 1983 authorization in FY 1984 and FY 1985 and the balance of 13.5 million will be obligated in FY 1986. None of the FY 1983 authorization will lapse.

SENATOR ANDREWS: Don't you believe that modifications are necessary or advisable if this amount of funding will lapse?

ANSWER: With less stringent requirements for Section 408 alcohol incentive grant funds, more States would be able to qualify for this program. Several States have attempted to qualify for basic grants under the program, but have failed to meet one or more of the criteria. Some of these States would probably qualify if the criteria were less stringent. Other States, which have not yet applied, might decide to apply if the basic requirements were lowered.

It is our view, however, that the Section 408 program is working as intended to encourage the States to take extra measures to combat drunk driving. We note that Federal highway safety funds are already available to all States for alcohol countermeasure purposes through the Section 402 program, which would continue to be available under the Department's highway reauthorization proposal. We believe that the Section 402 approach, which provides maximum flexibility to the States, is preferable to considering adjustments in the final year or two of the narrower short-term categorical grant program under Section 408.

SENATOR ANDREWS: What can be done either by the Department, States, or this committee so that these funds can be used for combatting drunk driving?

ANSWER: NHTSA has, since formulation of the final rule, been providing technical assistance and consultation to the States on strategies for achieving necessary changes to help them qualify for these grants.

The 408 program has been given the highest priority by this agency, particularly in providing assistance to the States to help them qualify. The 408 program has been discussed at the National Association of Governors' Highway Safety Representatives conference, Regional Highway Safety workshops, United States Conference of Mayors, National Association of Counties, International Association of Chiefs, Police Conference, American Association of Motor Vehicle Administrators regional and national conferences, and many other forums. In addition, staff has worked closely with a number of non-qualified States. This has involved presentations and planning conferences with State legislators, State Task Forces, Citizen organizations, and individual meetings with State officials. Consequently, a better understanding of the goals and objectives of the 408 program was achieved, yet the final steps to qualifying rests with the States.

As of March 7, over half of the States (27) have applied and one-third of the States (17) have qualified for grants in excess of $25 million dollars. The major stumbling blocks to additional States qualifying continues to be the prompt license suspension and mandatory hard suspension (30 days for first offenders and one year for multiple offenders).

While many of the States have not qualified for Section 408 funds, it does not mean that they have been ignoring the drunk driver problem. They have implemented stricter laws, increased their enforcement and adjudication efforts and have taken action to increase public awareness and support. Many of these States have also been successful in reducing alcohol-related crashes during this time period.

Additional States would probably qualify if the criteria were less stringent and other States which have not yet applied, might decide to apply if the basic requirements were lowered. However,it is our view that the Section 408 program is working as intended and the criteria should not be changed in the final year or two of the program.

SENATOR ANDREWS: In response to question asked last year (Page 315 of Senate Hearing 99-336, Part 1). The agency stated that analysis of the program would be completed in the spring and recommendations finalized by the summer (1985). (Provide the Committee a copy of that analysis and Agency recommendation.) In summary, what was the result of that effort?

ANSWER: The staff paper concluded that the Section 408 program is working as intended to encourage States to take extra measures to combat drunk driving and that there should be no change in the basic or supplemental criteria. It also concluded that additional States would probably qualify if some type of a modified grant were enacted.

It is the agency's view however, that Federal highway safety funds are already available to all States for alcohol countermeasure purposes through the Section 402 program, which would continue to be available under the Department's highway reauthorization proposal. The Section 402 approach, which provides maximum flexibility to the States, is preferable to considering adjustments in the final year or two of the categorical grant program under Section 408.

The major obstacles in qualifying for a Basic Grant are:

- o Criterion #1 - Prompt License Suspension
  - Average time for arrest to suspension 90/45 days; and
  - Hard license suspension requirements (30 days for first offenders; 1 year for second and subsequent offenders).
- o Criterion #2 - Mandatory Jail
  - Mandatory sentence not subject to suspension or probation of (1) 48 consecutive hours imprisonment or (2) not less than 10 days community services.

    Most State statutes provide sentences that can be suspended or probated.
- o Past Legislative Activity
  - Legislators are reluctant to reopen consideration of

their current DWI laws fearing they will be weakened instead of strengthened.

- Priority given to enacting age 21 drinking age and mandatory safety belt usage laws.

o Non-408 States have enacted stricter laws, increased enforcement, and have taken steps to increase public awareness and support.

A copy of the staff paper will be provided to the Committee by the end of April.

SENATOR ANDREWS: The Fiscal Year 1986 limitation is $27.6 million (post sequestering). Yet the estimated level of obligations in 1986 is now $14.4 million. Why aren't these funds being obligated more quickly? Is the answer the same as last year when the Committee questioned this program's slowness to obligate?

ANSWER: A total of $11.5 million was obligated through FY 1985. This provided the initial funding for sixteen States that had qualified. In FY 1986 we will obligate $15.2 million to fully fund the States that have qualified to date. In addition, we expect to obligate $12.4 million to initially fund States qualifying in FY 1986. This will enable us to meet the obligation limitation of $27.6 million for FY 1986. We are projecting a total obligation of $39.1 million through FY 1986.

NHTSA has, since formulation of the final rule, been providing technical assistance and consultation to the States to help them qualify for these grants. The 408 program has been given the highest priority by this agency.

As of March 7, over half of the States (27) have applied and one-third of the States (17) have qualified for grants in excess of $25 million dollars. The major stumbling blocks to additional States qualifying continues to be the prompt license suspension and mandatory hard suspension (30 days for first offenders and one year for multiple offenders).

SENATOR ANDREWS: What is the projection of funds used in Fiscal Year 1986 (again amount, by tier and by State)?

ANSWER: We will obligate $15.2 million in FY 1986 to fully fund 17 States that have qualified to date. In addition, we project that we will obligate 12.4 million for the additional States that qualify in FY 1986. Total obligations in FY 1986 are projected to be $27.6 million.

State	MAXIMUM ANNUAL AWARDS FOR WHICH STATES ARE ELIGIBLE Basic	Supplemental	FY 84-85 Obligated	FY 1986 Estimates	FY 1987 Estimates
AL	556,418	370,946	556,418	1,112,836	
AK	157,200	104,800	262,000	524,000	
AR	420,848	280,565	701,413	1,402,826	
DE	157,200	104,800	262,000	524,000	
IN	723,902	482,601	2,413,006	1,206,503	
LA	527,956	351,971	879,927	1,759,854	
ME	157,200	104,800	524,000	262,000	
MS	387,633	258,422	1,292,110	646,055	
MT	217,959	145,306	726,530	363,265	
NE	164,093	109,395	437,581	652,214	
NH	157,200	104,800	524,000	262,000	
NJ	796,474	530,983	796,474	3,185,897	
NM	233,866	155,911	389,777	779,554	
ND	232,358	154,906	773,654	388,138	
RI	157,200	104,800	524,000	262,000	
UT	230,349	153,566	383,915	776,830	
WA	572,533	381,688	-0-	1,145,223	
Sub-total			11,446,805	15,253,195	-0-
States Qualifying in 1986			-0-	12,346,805	13,900,000
States Qualifying in 1987			-0-	-0-	4,000,000
Total			11,446,805	27,600,000	17,900,000

SENATOR ANDREWS: What is the estimate of funds obligated in Fiscal Year 1987 (using the $17.9 million level, by tier and by State)?

ANSWER: We project that we will obligate $13.9 million to fund States qualifying in FY 1986. In addition, we project that we will obligate $4.0 million for additional States qualifying in FY 1987. Total obligations in FY 1987 are projected at $17.9 million. (See table in response to prior question.)

MINIMUM DRINKING AGE LEGISLATION

SENATOR ANDREWS: Public Law 98-363, enacted July 1984, requires reductions in Federal-Aid highway apportionments to States that do not have a minimum drinking age of at least 21 years. How many States presently have 21 years minimum drinking age?

ANSWER: As of March 5, 1986, 38 States have a minimum drinking age of 21 years.

SENATOR ANDREWS: For the record, please provide a State by State breakdown of these drinking age laws as it relates to beer, wine and distilled spirits (if different) and the year of State enactment.

ANSWER: This State by State breakdown is as of February 28, 1986.

State	Enacted Year	All Alcoholic Beverages	Distilled Spirit	Wine	Beer
ALABAMA	85	21			
ALASKA	83	21			
ARIZONA	85	21			
ARKANSAS	35	21			
CALIFORNIA	33	21			
COLORADO	45		21	21	18 (3.2%)
CONNECTICUT	85	21			
DELAWARE	84	21			
DISTRICT OF COLUMBIA	34		21	18	18
FLORIDA	85	21			
GEORGIA	85	21			
HAWAII	72		18	17	18
IDAHO	72		19	19	19
ILLINOIS	80	21			
INDIANA	34	21			
IOWA	78		19	19	19
KANSAS	85	21			
KENTUCKY	38	21			
LOUISIANA	48		18	18	18
MAINE	85	21			
MARYLAND	82	21			
MASSACHUSETTS	84	21			
MICHIGAN	78	21			
MINNESOTA	76		19	19	19
MISSISSIPPI	85	21			
MISSOURI	45	21			
MONTANA	79		19	19	19
NEBRASKA	85	21			
NEVADA	35	21			
NEW HAMPSHIRE	35	21			
NEW JERSEY	83	21			
NEW MEXICO	34	21			
NEW YORK	85	21			
NORTH CAROLINA	85	21			
NORTH DAKOTA	36	21			
OHIO	82		21	21	19
OKLAHOMA	83	21			
OREGON	33	21			
PENNSYLVANIA	35	21			
RHODE ISLAND	84	21			
SOUTH CAROLINA	85	21			
SOUTH DAKOTA	84		21	21	19 (3.2%)
TENNESSEE	84	21			
TEXAS	85	21			
UTAH	35	21			
VERMONT	86	21			
VIRGINIA	85	21			
WASHINGTON	34	21			
WEST VIRGINIA	83		19*	19*	19*
WISCONSIN	84		19	19	19
WYOMING	83		19	19	19

*19 for State Residents, 21 for out-of-state

SENATOR ANDREWS: What States risk the penalty provisions of Public Law 98-363?

ANSWER: The following States do not provide for a minimum drinking age of 21, and therefore risk the penalty provisions of Public Law 98-363: Colorado; Hawaii; Idaho; Iowa; Louisiana; Minnesota; Montana; Ohio; South Dakota; West Virginia; Wisconsin; Wyoming and the District of Columbia. Other States may also risk the penalty provisions, depending on specific provisions of their statutes. The Department is reviewing each State drinking age law at this time, and should complete its review shortly.

SENATOR ANDREWS: During consideration of the continuing resolution, there was an effort to make permanent the penalty provisions contained in Public Law 98-363. Does the Department still believe this is a good way to go? If so, why? If not, why not?

ANSWER: After careful consideration and deliberation, it was determined that in the case of the National Minimum Drinking Age, the use of Federal authority was fully justified. Despite our efforts and some 18 months after signing of Federal legislation, 12 States and the District of Columbia have not raised their legal age to purchase/possess alcoholic beverages to 21. In addition, four States that have enacted age-21 statutes have included sunset provisions where the drinking age reverts to the original age when Federal withholding of highway funds ends, under existing law on September 30, 1988. Therefore, we believe it is necessary to make permanent the penalty provisions to preclude States from sunsetting their laws when Federal withholding of highway funds ends. We are convinced that it will help persuade State legislators to act in the national interest to save our children's lives by raising the drinking age to 21 across the country. Without permanent penalty provisions, the nation could return to the patchwork quilt whereby neighboring States have different drinking age law. The "blood border" problem that exists when our youth drive from one State with 21 as the drinking age into another State with a lower age must be eliminated.

SAFETY FORMULA GRANT PROGRAM

SENATOR ANDREWS: Will the Administration in proposed legislation continue the earmarking of funds for child seats (8%) and traffic records computerization (10%)?

ANSWER: No. Our pending legislative proposal would reauthorize the Section 402 grant program at $110 million and provide greater flexibility to the states by deleting all statutory earmarking from those funds.

The proposal is incorporated in Title II of the "Surface Transportation Reauthorization Act of 1986," which Secretary Dole transmitted to Congress on February 5, 1986. Section 202 of the bill would reauthorize the Section 402 program at $110 million per year for Fiscal Years 1987-90, with no earmarking of those funds. NHTSA recognizes that highway safety needs vary among different states and may change over time, so our proposal would permit the states to determine the most effective use of those funds.

It should be noted that there are already Federal guidelines which assure that Section 402 funds are used for national high-priority and high-payoff safety programs. A joint NHTSA-FHWA rulemaking in 1982, required by the 1981 Budget Reconciliation Act, determined the six priority program areas -- alcohol countermeasures, police traffic services, occupant protection, traffic records, and emergency medical services (for NHTSA 402 funds) and safety construction and operational improvements (for FHWA 402 funds), 23 C.F.R. Pt. 1206. Within those guidelines, NHTSA believes that each state should be permitted to determine the most effective allocation of 402 funding.

Our proposal is based in large part on the practical problems that states have encountered with statutory earmarking. For example, the separate earmarking of funds to encourage safety belt usage (2%) and child safety seat usage (8%) has hampered state efforts to develop comprehensive programs promoting all types of occupant protection. The earmarking of $20 million for 55 mph speed limit enforcement has proven burdensome for states which already meet Federal 55 mph enforcement standards and wish to expand their efforts to enforce other speed limits and traffic laws. States may also have special needs from time to time for additional resources to combat drunk driving or to improve emergency medical services, but the earmarking of funds limits their ability to undertake such initiatives.

NHTSA does not believe it is feasible to develop a single formula earmarking Section 402 funds which adequately responds to the differing highway safety needs of all 50 states. Accordingly, we have proposed that each state should be permitted to determine (within the general Section 402 guidelines) the best use of this funding each year, taking into account the state's own safety needs and other available resources. In addition, we note that our legislative proposal (203[d]) also provides for periodic rulemaking proceedings to assure that the priority program areas for Section 402 funds continue to address national highway safety needs.

SENATOR ANDREWS: For the record, provide for each program within the Section 402 program the actual obligations for fiscal years 1983, 1984 and 1985, and the agency's estimates of program distribution in fiscal years 1986 and 1987.

ANSWER: The following table provides the distribution of 402 obligations by major program areas:

(in thousands of dollars)

Program Area	FY 1983 Actual	FY 1984 Actual	FY 1985 Actual	FY 1986 1/ Estimate (Sequest.)	FY 1987 1/ Estimate
Alcohol Safety	$39,038	$38,579	$43,822	$ 40,290	$ 36,420
Police Traffic Serv.	33,156	30,936	34,273	33,303	30,070
Emergency Med. Serv.	4,965	4,467	5,333	5,838	5,240
Occupant Protection	6,703	8,825	15,805	16,556	14,990
Traffic Records	6,150	6,203	14,770	14,068	11,820
All Other	91	6,000	7,597	6,220	6,560
Grant Administration	4,897	4,990	4,900	4,785	4,900
TOTAL	$95,000	$100,000	$126,500	$121,060	$110,000

1/ The table reflects an estimated distribution of obligations by program category based on a straight-line extrapolation of prior years' experience. The actual distribution of obligations will be determined by the States.

NATIONAL MAXIMUM SPEED LIMIT

SENATOR ANDREWS: In response to a question at last year's Hearing, NHTSA responded that a Departmental 55 mph Task Force is reviewing the National Academy of Sciences Report on the national speed limit, and a Department position would be finalized as soon as possible. What is the status of that review?

ANSWER: The DOT is reviewing the finding and recommendations of the NAS study. A joint NHTSA/FHWA/OST Task Force was established to consider various options related to the 55 mph speed limit. The first priority was given to the need for an improved speed compliance measurement process.and to improve safety by encouraging State Patrols to focus speed enforcement at high risk crash locations. The NAS recommendation to adopt a point system in which high-speed violations are weighted more heavily than incremental violations has been considered with various configurations. The requirement for a system that treats all States equitably, yet still provides for public safety, has made analysis of various proposals a complex task. The examination of Task Force proposals for a revised speed compliance system has not been completed.

SENATOR ANDREWS: How soon can Congress expect the Department's position on this subject?

ANSWER: The DOT recognizes the importance of proceeding with our review of the NAS recommendations regarding the 55 mph speed limit. We are proceeding with our examination of potential alternatives and hope to have our review completed in the near future.

FEDERAL MOTOR VEHICLE SAFETY STANDARDS (FMVSS)

SENATOR ANDREWS: What are the criteria used for selecting which Federal Motor Vehicle Safety Standards (FMVSS) to test for?

ANSWER: The following criteria are used to select which Federal Motor Vehicle Safety Standards will be tested: New standards, amendments to existing standards, high failure rate history, standards of significant interest to consumers, and the need to maintain an enforcement presence through minimum surveillance.

SENATOR ANDREWS: What have been the failure rates for standards tested in fiscal years 1984 and 1985? Please list by standard, number of compliance tests on each standard tested and the result.

ANSWER: The information requested is provided in the following tables:

FISCAL YEAR 1984

FMVSS NO.	DESCRIPTION	NO. OF TESTS	NO. OF ITEMS	NO. OF FAILURES	PERCENT FAILURES
103	Windshield Defrosting and Defogging Systems	20	20	1	5.0
104	Windshield Wiping and Washing Systems	30	30	2	6.7
105	Hydraulic Brake Systems	60	60	2	3.3
106	Brake Hoses	20	330	39	11.8
108	Lamps, Reflective Devices, and Associated Equipment	587	961	491	51.1[1]
109	New Pneumatic Tires - Passenger Cars	710	1705	1	0.1
116	Hydraulic Brake Fluids	20	20	7	35.0
118	Power-Operated Window Systems	10	10	0	0.0
119	New Pneumatic Tires - Trucks/Buses	300	390	0	0.0
124	Accelerator Control Systems	25	25	0	0.0
126	Truck Camper Loading	8	8	5	62.5[2]
204	Steering Control Rearward Displacement	20	20	0	0.0
206	Door Locks and Door Retention Components	18	108	0	0.0
207	Seating Systems	15	15	0	0.0
209	Seat Belt Assemblies	37	555	4	0.7
210	Seat Belt Assembly Anchorages	20	20	2	10.0
212	Windshield Mounting	30	30	0	0.0
213	Child Seating Systems	24	84	15	17.9
216	Roof Crush Resistance	24	24	0	0.0
218	Motorcycle Helmets	32	128	31	24.2
221	School Bus Body Joint Strength	5	5	4	80.3[3]
222	School Bus Passenger Seating	5	5	2	40.0
301	Fuel System Integrity	61	61	1	1.6

[1] Approximately one half of the failures experienced involved offshore manufactured hazard and turn signal flashers of inferior quality. The remaining failures involved headlamps of both domestic and foreign manufacture with varying degrees of criticality. Twelve recalls subsequently resulted from our investigation of these failures.

[2] All noted failures involved certification labeling deficiencies and, to a lesser degree, problems involving center of gravity location, truck-camper matching, and absence of consumer information.

[3] The majority of failures involved disputed interpretations of NHTSA standards.

FISCAL YEAR 1985

FMVSS NO.	DESCRIPTION	NO. OF TESTS	NO. OF ITEMS	NO. OF FAILURES	PERCENT FAILURES
103	Windshield Defrosting and Defogging Systems	10	10	0	0.0
104	Windshield Wiping and Washing Systems	0	0	0	0.0
105	Hydraulic Brake Systems	14	14	1	7.1
106	Brake Hoses	20	330	35	10.6
109	New Pneumatic Tires - Passenger Cars	555	1110	0	0.0
116	Hydraulic Brake Fluids	27	27	9	33.3
118	Power-Operated Window Systems	9	9	2	22.2
119	New Pneumatic Tires - Trucks/Buses	20	40	0	0.0
124	Accelerator Control Systems	11	11	0	0.0
126	Truck Camper Loading	0	0	0	0.0
204	Steering Control Rearward Displacement	0	0	0	0.0
206	Door Locks and Door Retention Components	16	96	0	0.0
207	Seating Systems	5	5	0	0.0
209	Seat Belt Assemblies	38	570	6	1.1
210	Seat Belt Assembly Anchorages	5	5	0	0.0
212	Windshield Mounting	27	27	1	3.7
216	Roof Crush Resistance	9	9	0	0.0
218	Motorcycle Helmets	32	128	128	100.0 1/
221	School Bus Body Joint Strength	3	3	3	100.0 2/
222	School Bus Passenger Seating	3	3	1	33.3
301	Fuel System Integrity	43	43	2	4.7

1/ Most motorcycle helmet failures only involved labeling deficiencies.

2/ The majority of failures involved disputed interpretations of NHTSA standards on three tests.

NOTE: Not every failure experienced in the compliance test program necessarily leads to a recall. All such failures, however, result in detailed investigations involving review of the manufacturer's certification data, manufacturing specifications, and other related matters, all of which are thoroughly explored in technical meetings with the manufacturers, and full consideration of whether a statutory non-compliance is present so as to require a recall and civil penalty.

SENATOR ANDREWS: The number of standards to be tested in fiscal year 1986 is 24, yet the number of standards scheduled for fiscal year 1987 drops to 20. Why?

ANSWER: For a given budget, choices are made between the number of vehicles to be tested, the number of standards included, and similarly for equipment testing. We attempt to design a compliance test program each fiscal year that strikes a proper balance between standards and vehicles. In a year with many new models of cars introduced we would trade off standards for cars. We would do this only to a limit, however, since we believe it is more important to include the more critical safety standards than to test more vehicles.

SENATOR ANDREWS: What standards will be tested in fiscal years 1986 and 1987? How many tests for each standard? What vehicles are scheduled for testing in fiscal years 1986 and 1987 and what equipment items are scheduled for testing?

ANSWER: The standards to be tested, the number of tests per standard, the vehicles and equipment items to be tested in fiscal year 1987 will not be determined until later this year when all of the data involved in the selection process are available. The relative information requested for fiscal year 1986 is presented in the following tables:

FMVSS No.	DESCRIPTION	NO. OF TESTS
103	Windshield Defrosting and Defogging Systems	15
104	Windshield Wiping and Washing Systems	18
105	Hydraulic Brake Systems	34
106	Brake Hoses	20
108	Lamps, Reflective Devices, and Associated Equipment	550
109	New Pneumatic Tires, Passenger Cars	320
116	Hydraulic Brake Fluids	26
119	New Pneumatic Tires for Vehicles Other Than Pass Cars	140
124	Accelerator Control Systems	16
204	Steering Control Rearward Displacement	10
206	Door Locks and Door Retention Components	16
207	Seating Systems	8
209	Seat Belt Assemblies	20
210	Seat Belt Assembly Anchorages	15
212	Windshield Mounting	10
213	Child Seating Systems	20
216	Roof Crush Resistance	13
218	Motorcycle Helmets	30
219	Windshield Zone Intrusion	10
221	School Bus Body Joint Strength	2
222	School Bus Passenger Seating	3
301	Fuel System Integrity	28

VEHICLES TO BE TESTED IN FISCAL YEAR 1986

Buick Riviera
Buick Somerset
Chevrolet Nova (2)
Chevrolet Spectrum
Chevrolet Sprint
Oldsmobile Toronado
Pontiac Grand AM
Pontiac Trans Am
Ford EXP
Ford Taurus
Lincoln Mark VII
Mercury Grand Marquis
Mercury Merkur
Mercury Sable
Dodge Lancer (2)
Dodge Moni
Plymouth Caravelle
AMC Alliance
AMC Encore
BMW 325
Nissan Sentra
Nissan Stanza
Toyota Celica (2)
Volkswagen Golf
Volkswagen Jetta
Volkswagen Scirocco
Yugo GV (2)
AMC Jeep
AMC Jeep Comanche (3)
Chevrolet AstroVan
Chevrolet G15 Van
Chevrolet S-10 Blazer
Chevrolet Suburban
Ford Aerostar (4)
Ford Bronco II
Ford SuperCab
Isuzu SpaceCab (3)
Nissan Pickup
Nissan Stanza Wagon
Suzuki Samurai (3)

VEHICLES TO BE TESTED IN FISCAL YEAR 1986 (continued)

AMC Alliance
AMC Encore
BMW 325
Mercedes-Benz 190
Honda Accord
Hyundai Excel (2)
Nissan Maxima
Nissan Pickup
Nissan Stanza Wagon
Suzuki Samurai (3)
Toyota Pickup
Toyota 4 Runner
Mazda 323
Blue Bird 65-Passenger School Bus
United 16-Passenger School Bus
Wayne 65-Passenger School Bus

EQUIPMENT ITEMS TO BE TESTED IN FISCAL YEAR 1986

Brake Hoses
Passenger Car Tires
Samples of Brake Fluid
Truck/Bus Tires
Seat Belts
Child Restraints
Motorcycle Helmets
Door Locks/Hinges
Lamps, Reflective Devices, and Associated Equipment

(1) Numbers in parenthesis indicate the number of units of a particular model required to perform destructive testing for various standards.

(2) Not all vehicles selected are tested to all standards or the same standards.

SENATOR ANDREWS: How many of the standards scheduled for testing in fiscal years 1986 and 1987 were tested in fiscal year 1985?

ANSWER: The standards to be tested in fiscal year 1987 will not be determined until later this year when all of the data involved in the selection process are available. The fiscal year 1986 program includes the following 19 standards tested in fiscal year 1985:

FMVSS No.	DESCRIPTION
103	Windshield Defrosting and Defogging Systems
104	Windshield Wiping and Washing Systems
105	Hydraulic Brake Systems
106	Brake Hoses
109	New Pneumatic Tires - Passenger Cars
116	Hydralic Brake Fluids
119	New Pneumatic Tires - Trucks/Buses
124	Accelerator Control Systems
204	Steering Control Rearward Displacement
206	Door Locks and Door Retention Components
207	Seating Systems
209	Seat Belt Assemblies
210	Seat Belt Assembly Anchorages
212	Windshield Mounting
216	Roof Crush Resistance
218	Motorcycle Helmets
221	School Bus Body Joint Strength
222	School Bus Passenger Seating
301	Fuel System Integrity

SENATOR ANDREWS: Are standards selected for testing for which there were no failures associated with these standards the previous year? Which ones? Why?

ANSWER: Standards are selected for testing during any given year for which no failures associated with those standards had occurred in the previous year. For example, the following standards were included in the fiscal year 1986 test program although no failures occurred in the previous year:

FMVSS No	DESCRIPTION
109	New Pneumatic Tires - Passenger Cars
118	Power-Operated Window Systems
119	New Pneumatic Tires - Trucks/Buses
124	Acclerator Control Systems
204	Steering Control Rearward Displacement
206	Door Locks and Door Retention Components
207	Seating Systems
212	Windshield Mounting
216	Roof Crush Resistance

These standards were selected for testing based upon the criteria for selection noted in the response to an earlier question. All of the standards, including those tested, are considered to be critical safety requirements warranting a continuation of the enforcement presence which, in turn, will send a signal to manufacturers to maintain strong quality control programs covering design and manufacture of their products.

SENATOR ANDREWS: It appears that NHTSA regularly schedules about 24 to 20 standards for testing each year. There are 49 standards in effect; how does NHTSA arrive at the number of standards to test?

ANSWER: The number of standards to be tested is based upon the criteria for selection noted in the response to an earlier question and the funding appropriated by Congress.

SENATOR ANDREWS: Has NHTSA thought about testing fewer standards more intensely or more standards for survey purposes? If so, please tell the Committee the pros and cons for selecting more or fewer standards to test each year.

ANSWER: These questions have been considered by NHTSA and are part of the test program development process conducted by the Office of Vehicle Safety Compliance.

Testing fewer standards with more tests per standard would give a measure of compliance across the industry, although limited only to those standards tested. Because a larger sample may be tested, there would be a greater chance of uncovering noncompliances. Testing more standards for survey purposes only (i.e., limited sample size) would reduce the probability of discovering noncompliances in the increased number of standards covered. The ideal would be to balance the program using a combination of both approaches. As mentioned earlier, it is this balanced approach that we now follow, to the extent possible, in the compliance test program as currently constituted.

DEFECTS AND NONCOMPLIANCE INVESTIGATIONS

SENATOR ANDREWS: On page 43 of the budget justification are listed the accomplishments of the defects and noncompliance and odometer fraud efforts. Please provide this data by fiscal year.

ANSWER: (the information follows)

ODI ACTIVITY SUMMARY

	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86 (To date)
INVESTIGATIONS												
OPENED	N/A	N/A	106	145	130	122	39	89	119	111	117	24
CLOSED	N/A	N/A	81	118	115	121	104	90	114	116	123	33
AUDITS												
INITIATED	19	30	18	18	14	6	11	15	5	5	7	0
CLOSED	19	20	24	17	16	4	1	7	15	6	14	10
PETITIONS												
RECEIVED	N/A	N/A	12	59	62	21	22	14	19	21	34	2
CLOSED	N/A	N/A	13	41	76	25	16	12	11	18	28	5
VEHICLE RECALL CAMPAIGNS												
TOTAL	241	202	148	226	222	125	115	115	119	129	142	55
INFLUENCED BY ODI	31	5	18	51	40	21	16	12	19	19	25	9
VEHICLES RECALLED (000)												
TOTAL	2,246	2,048	6,807	14,585	6,682	5,130	9,980	2,402	3,394	4,938	8,089	1,420
INFLUENCED BY ODI	145	339	5,963	8,111	3,956	2,696	2,234	1,362	2,062	2,673	6,409	772
EQUIPMENT RECALLS												
CAMPAIGNS	31	23	13	55	39	23	23	32	25	25	17	14
TOTAL UNITS (000)	76	280	195	517	1,211	256	262	947	151	133	636	1,436
TIRES (000)	21	303	8	129	14,702	7,024	52	149	38	11	17	1
HOTLINE CALLS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	180,500 (1)	202,400	234,263	260,066	95,921
FREEDOM OF INFORMATION ACT REQUESTS PROCESSED	N/A	N/A	N/A	N/A	63 (2)	94	163	151	167	238	228	73

NOTES:

N/A - Information Not Available
1 - December 9, 1981 Through September 30, 1982
2 - March 1, 1979 Through September 30, 1979

STANDARDS COMPLIANCE SUMMARY

	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
RECALL CAMPAIGNS												
TOTAL	23	45	66	63	61	56	36	22	26	25	21	14
INFLUENCED BY OVSC	15	26	28	15	28	16	11	9	10	5	3	2
VEHICLES RECALLED (000)												
TOTAL	246	196	448	498	656	286	194	205	283	1,777	77	39
INFLUENCED BY OVSC	239	81	37	326	480	135	23	193	9	663	19	12
EQUIPMENT RECALLS												
CAMPAIGNS	2	6	8	13	1	7	3	5	2	9	17	1
TOTAL UNITS (000)	0.4	13	65	429	0	351	0.2	27	41	995	2,998	2
TIRES	8	17,241	9,164	9,847	13,959	0	4,915	0	0	0	0	0
FUEL ECONOMY COMPLIANCE MONITORING 1/												
PASSENGER CAR MANUFACTURERS	N/A	N/A	N/A	26	27	22	22	21	26	24	26	27
LIGHT TRUCK MANUFACTURERS	N/A	N/A	N/A	N/A	9	10	10	10	12	13	11	12
GREY MARKET MONITORING 2/												
INVESTIGATIONS OPENED	N/A	N/A	N/A	N/A	N/A	2,004	2,390	3,733	11,134	28,327	59,546	24,707
INVESTIGATIONS CLOSED	N/A	N/A	N/A	N/A	N/A	2,270	1,470	2,410	9,660	15,396	41,501	40,597
CIVIL PENALTIES - SAFETY STANDARDS NON-COMPLIANCE	288	248	73	552	319	714	33	30	133	14	21	0
FUEL ECONOMY CIVIL PENALTY - JAQUAR CARS, INC.												6,015

1/ Fuel economy standards effective 1978 model year for passenger cars, 1979 model year for light trucks.
2/ Data not available prior to FY 1980

ODOMETER ENFORCEMENT SUMMARY 1/

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86 (To date)
Investigations Completed (Substantiated Fraud)	1	74	113	88	99	79	80	43	12
Number of Vehicles	1	182	745	425	754	205	400	146	149
Referred to Department of Justice for Prosecution	0	5	25	21	20	6	4	6	10
Referred to States for Prosecution	0	13	14	7	26	24	29	11	1
Results of Investigation Provided to Complainant For Private Civil Action	1	56	74	60	53	49	47	26	1

1/ Odometer Enforcement Activity Initiated in FY 78

SENATOR ANDREWS: What is the average processing time for noncompliance investigation cases closed in fiscal years 1984, 1985 and estimated for 1986 and 1987?

ANSWER: The average processing time for noncompliance cases closed in fiscal years 1984 and 1985 was 20 months and 13 months, respectively. To date in fiscal year 1986, the average time to closure is 19 months. Because of the many variables involved in processing time for investigations, it is not possible to estimate the processing time for such activities for fiscal year 1987.

SENATOR ANDREWS: Is NHTSA satisfied that the average processing time is reasonable? If not, why not? If not, what can be done to improve it?

ANSWER: Recognizing the varying degrees of complexity in cases, NHTSA is satisfied that processing time for investigations is reasonable under the circumstances as they now exist. Average processing time for noncompliance investigations can, in itself, be very misleading recognizing the mixture of cases involved and the individual circumstances surrounding each case. A more serious case involving a critical safety problem would always be handled on an expedited basis in order to obtain recall and corrective action as soon as possible.

SENATOR ANDREWS: How does NHTSA measure reasonable with regard to processing time for investigations resulting in a recall or resulting in a civil penalty?

ANSWER: NHTSA measures the reasonableness of processing time on a case by case basis by considering all the factors discussed in answering the previous related questions.

SENATOR ANDREWS: What criteria does NHTSA use to measure the effectiveness of its recall and penalty process and noncompliance investigations?

ANSWER: There are two aspects to the question of the effectiveness of our recall process. The first is the effectiveness of the process in persuading the public to bring their cars into the dealership to have the repair (or other remedy) performed, and the second is the effectiveness of the process in ensuring that the remedy chosen by the manufacturer actually solves the identified safety problem. NHTSA assesses both of these by means of its recall audit process. After a manufacturer notifies the affected vehicle owners about a recall, the manufacturer is required to file six quarterly reports with NHTSA regarding the number of vehicles that have been returned for repair, and other specific information about the recall. NHTSA also conducts its own audit of affected owners. This process consists of identifying the population of owners of vehicles affected by a particular recall, and sending a post card to each of the affected owners selected for the audit. The card reminds owners to have the safety work performed on their cars, and invites the owners to write to NHTSA regarding any continuing problems after the work has been performed. NHTSA reviews the six quarterly reports filed by the manufacturer, as well as the responses to its own audit mailing, to determine the effectiveness of a recall campaign. On the average, about 50% of affected vehicles are returned, although this average varies with the age of the vehicle. A comparison to this average is one important assessment of the effectiveness of a recall campaign. If the returns are substantially below average for the age of the vehicle, or if consumers advise NHTSA of continuing problems suggesting the inadequacy of the remedy, NHTSA will consider other appropriate actions.

With respect to compliance investigations, the compliance test program is meant to be a general deterrent to manufacturing and selling vehicles and equipment items that do not comply with the safety standards. Within a realistic budget for this program, and recognizing that manufacturers are required to self-certify compliance with the safety standards, it would be impossible and contrary to the intent of the enabling legislation to test all vehicles and equipment items to the requirements of all safety standards. With this in mind, the criterion by which we measure the effectiveness of compliance investigations is the rate at which vehicles and equipment items fail the requirements of the safety standards and are recalled. We believe the program to be successful if we find few failures overall.

VEHICLE TESTING - RECALLS

SENATOR ANDREWS: What percentage of the vehicles being tested in Fiscal Year 1986 are domestic and what percentage foreign? What is the scheduled mix for Fiscal Year 1987?

ANSWER: Vehicles being tested in Fiscal Year 1986 include 55 percent domestic and 45 percent foreign. The mix for Fiscal Year 1987 will not be determined until later this year when all the data involved in the selection process are available. This includes such things as Fiscal Year 1986 test results, introduction of new models, changes in existing models, consumer complaints, and accident data where available. Selection of vehicles is based upon attributes relating to specific vehicles.

SENATOR ANDREWS: What is the Vehicle Selection Matrix?

ANSWER: The vehicle selection matrix is a compilation of models available in the marketplace for any given year. All available known data pertinent to each vehicle is entered such as prior test data, new models, accident data (when available), consumer complaints, defect reports, market penetration, engine displacement, vehicle weights, and other vehicle specifications that could have a bearing on compliance.

SENATOR ANDREWS: How is this selection matrix used?

ANSWER: The matrix is used to provide a basic overview of those factors considered in selecting vehicles for testing.

SENATOR ANDREWS: What data is in the Vehicle Selection Matrix that is used to select new model cars versus not new models?

ANSWER: The fact that a model is new is the most important information available for entry into the selection matrix. Other information such as engine displacement and vehicle weight is also normally available. When selecting vehicles for testing, the fact that a model is new is given more weight than the other information in the selection matrix that would be available for models that are not new. Most new models would be tested in the year they were introduced.

SENATOR ANDREWS: What percent of autos tested each year are new models versus non-new models? (Please provide for the past three fiscal years and scheduled for fiscal year 1987.)

ANSWER: The vehicles to be tested in fiscal year 1987 will not be determined until later this year when all of the data involved in the selection process are available. The information requested for the remaining fiscal years is provided in the table below:

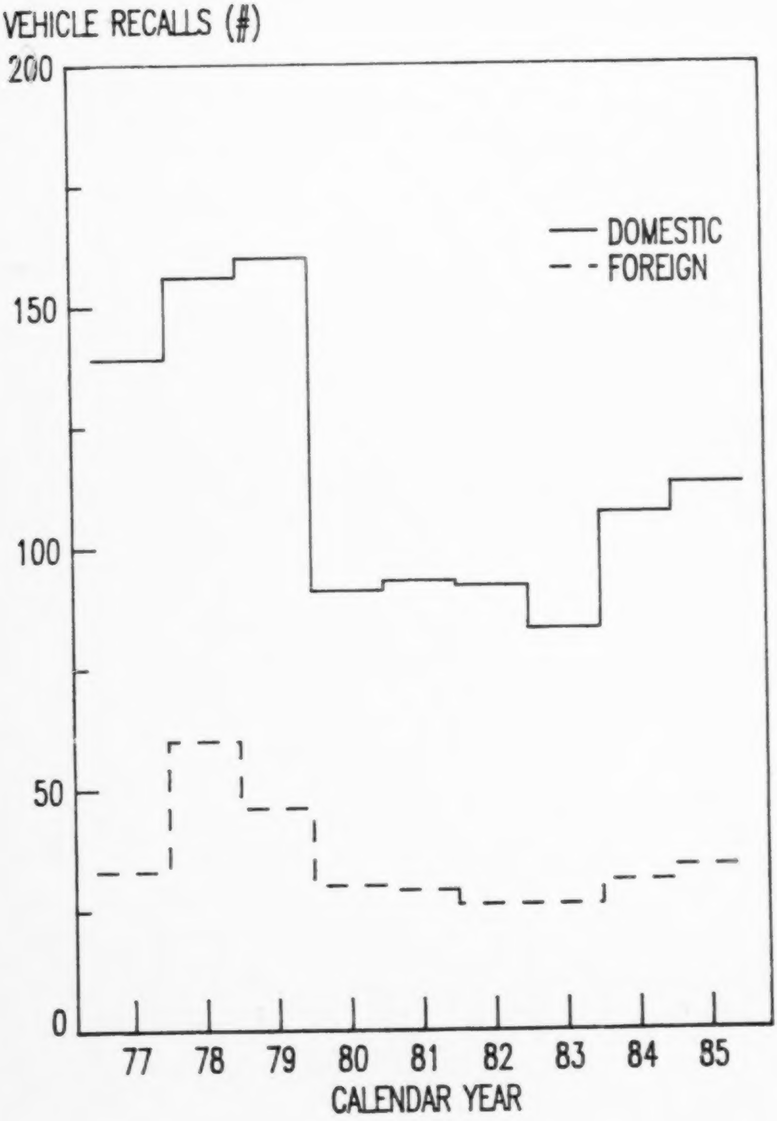
FISCAL YEAR	NEW MODELS	NON-NEW MODELS
1986	69 Percent	31 Percent
1985	68 Percent	32 Percent
1984	60 Percent	40 Percent

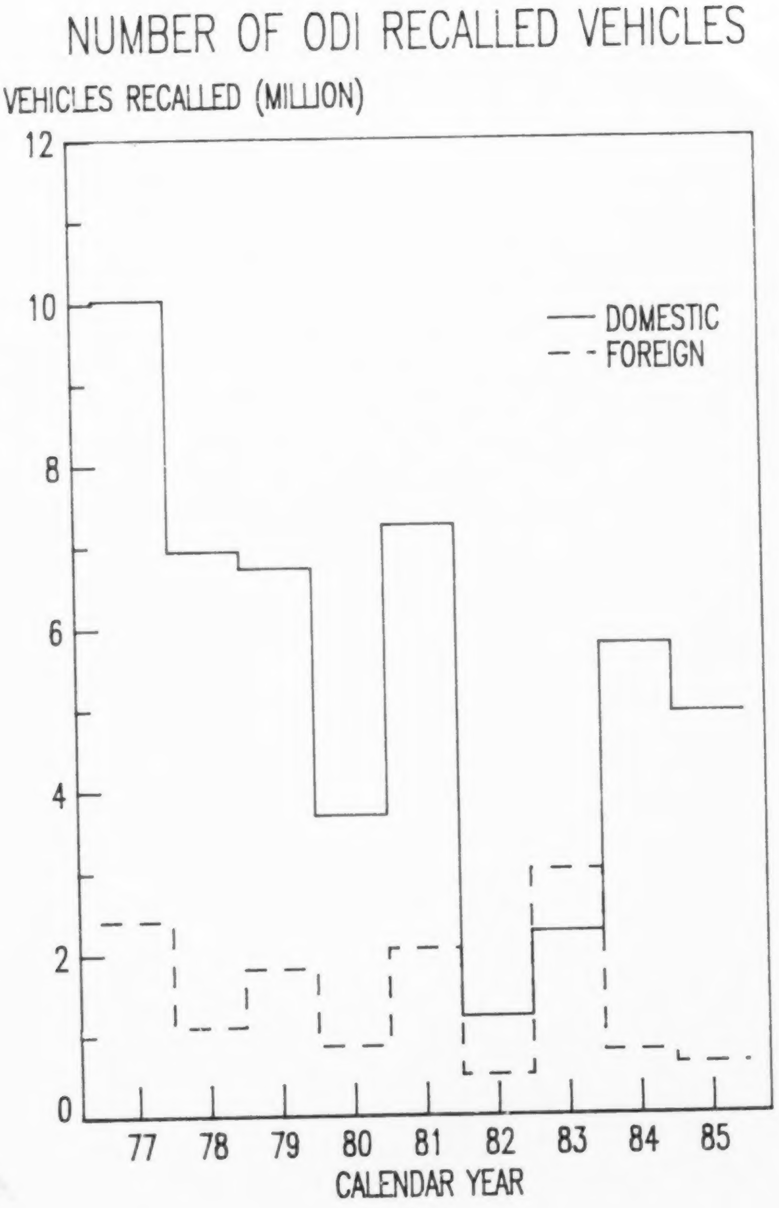
SENATOR ANDREWS: Please update the charts provided the Committee last year (pages 286-287) of Senate Hearings 99-336, Part 1) regarding the number of vehicles recalled and recall campaigns.

ANSWER:

[The information follows:]

ODI VEHICLE RECALL CAMPAIGNS




NUMBER OF ODI RECALLED VEHICLES
VEHICLES RECALLED (MILLION)
12
10
8
6
4
2
0
— DOMESTIC
- - FOREIGN
77
78
79
80
81
82
83
84
85
CALENDAR YEAR

INTERNATIONAL HARMONIZATION

SENATOR ANDREWS: How much of the Vehicle safety standards development funds are expended on international harmonization?

ANSWER: of the $715,000 in FY 1986 vehicle safety standards development funds, $250,000 are anticipated to be expended on international harmonization. For FY 1987, the same funding levels of $715,000 and $250,000, respectively, are projected.

SENATOR ANDREWS: Are any other funds from other offices spent in this area?

ANSWER: Other than for contract expenses in the Office of Rulemaking and the salary of the Director of International Harmonization (which is paid from the Office of the Administrator), there is no defined harmonization budget. However, it is sometimes the case that activities undertaken for another purpose produce results which are applicable to harmonization issues. For example, in the context of agency testing of General Motors X-cars, brake balance tests were conducted. The results of these tests were used in determining brake balance requirements for an international harmonization braking regulation which was proposed in May 1985.

SENATOR ANDREWS: What is the total amount of resources available (personnel and dollars) to the Director of International Harmonization?

ANSWER: The Director of International Harmonization draws upon funds and staff from the Office of Rulemaking and other offices as required.

GRAY MARKET

SENATOR ANDREWS: What office (or offices) is responsible for NHTSA's "gray market" activities?

ANSWER: The Office of Vehicle Safety Compliance in Enforcement is responsible for NHTSA's gray market activities.

SENATOR ANDREWS: What is the total amount of resources expended in this area? (by office, level of personnel and dollars)?

ANSWER: The information requested is provided in the table below covering the last six fiscal years:

FISCAL YEAR	CONTRACT FUNDING	OFFICE OF VEHICLE SAFETY COMPLIANCE PERSONNEL	CONTRACTOR PERSONNEL
1981	$ 90,000	8	0
1982	$ 144,000	8	5
1983	$ 335,000	8	10
1984	$ 655,000	8	15
1985	$1,100,000	10 1/	24
1986	$1,400,000	10	20

1/ This does not count 10 Engineers on temporary assignment.

SENATOR ANDREWS: Is NHTSA conducting site inspections on retrofit shops? Is this an efficient use of resources?

ANSWER: NHTSA has initiated a program of random inspection of vehicle modifiers' facilities utilizing regional staff.

SENATOR ANDREWS: How do customs, the Environmental Protection Agency and NHTSA coordinate their coverage of the imported car field?

ANSWER: NHTSA, through its Office of Vehicle Safety Compliance, maintains a continuing liaison with the U.S. Customs Service. Liaison with Customs field offices occurs on a daily basis involving the processing of entry declarations, issuing bond release letters, penalty recommendations, petitions for mitigation of penalties, and support to Customs field investigative units. Liaison with Customs headquarters is on an as needed basis. Less liaison with the Environmental Protection Agency is required because of differences in our statutes, but the agencies frequently exchange information in common areas of interest.

However, our coordination efforts are not limited to those two agencies. The Office of Vehicle Safety Compliance also provides numerous special investigative reports to the Internal Revenue Service, Federal Bureau of Investigation, California Air Resources Board, the Department of Transportation's Office of the Inspector General, and various District Attorneys to assist directly in their processing of violations.

SENATOR ANDREWS: Please provide what data the agency has regarding the importation of "gray market" automobiles. List numbers imported by year and estimates for fiscal years 1986, 1987.

ANSWER: The information requested is provided in the table below:

FISCAL YEAR	NUMBER OF VEHICLES IMPORTED
1980	2,400
1981	2,697
1982	4,024
1983	16,097
1984	30,850
1985	60,374
1986	59,300 (Estimated)
1987	60,000 (Estimated)

FATALITY RATES

SENATOR ANDREWS: Please update the chart provided in Senate Hearing 99-336, part 1, pages 293 on traffic fatalities and fatality rates starting with 1980.

ANSWER:

Fatality Rates

	Fatalities	Vehicle Miles of Travel (billion)	Fatalities Per 100 Million Vehicle Miles
1980	51,091	1,528	3.34
1981	49,301	1,556	3.17
1982	43,945	1,592	2.76
1983	42,589	1,658	2.57
1984	44,257	1,717	2.58
1985	43,600*	1,765*	2.47*

*Estimated as of March 1, 1986.

Estimated Changes

	Fatalities	Vehicle Miles of Travel (billion)	Fatalities Per 100 Million Vehicle Miles
1980-1985	-15%	+15%	-26%
1981-1985	-12%	+13%	-22%
1982-1985	- 1%	+11%	-11%
1983-1985	+ 2%	+ 6%	- 4%
1984-1985	- 1%	+ 3%	- 4%

SPEED LIMIT

SENATOR ANDREWS: Please provide for the record a summary on the latest information with respect to the various States' compliance with the 55 MPH speed limit. (As provided on pages 293 through 304 of Senate Hearing 99-336, Part 1)

ANSWER: A detailed summary of 55 mph speed compliance data is attached.

The summary includes a general comparison of speed compliance data for FY 1984 and FY 1985 which shows a continuation of the gradual increase in speed levels. It also furnishes a listing for individual States showing the FY 1985 certification data, the unadjusted speed data for traffic exceeding 55 mph, 60 mph, and 65 mph, as well as the 85th percentile speeds. A breakdown of speed information is presented by highway classification and the roadway mileage in each State subject to speed monitoring for FY 1985 is given.

It is of note that four States, Arizona, New Hampshire, Rhode Island, and Vermont, have submitted speed certification data for 1985 reflecting they are in noncompliance with the Federal statute. Arizona reported 56.4 percent, New Hampshire 50.4 percent, Rhode Island 54.0 percent, and Vermont 53.2 percent exceeding the 55 mph speed limit.

Speed compliance data for the State of Maryland is not included in the charts depicting national speed averages or in the listing of individual States. Maryland's certification is still under review by FHWA/NHTSA to determine if the State's adjustments to speed data are in conformance with procedures permitted by Federal law and regulations.

FY 1985 SPEED MONITORING DATA SUMMARIES

Tabulations are provided for some of the various data items which are included either in the certifications or in the annual speed summary.

Attachment (1)--The percent exceeding 55 mph, highway mileage subject to speed monitoring, and the number of citations for exceeding 55 mph for each State* as reported in the FY 1985 certifications.

Attachment (2)--The unadjusted percent exceeding 55 mph by State* by functional grouping.

Attachment (3-9)--Self-explanatory.

The following abbreviations are used in the column headings for attachments (2) through (9).

I--Interstate
OF&E--Other freeways and expressways
ART--Arterials, both principal and minor
COLL--Collectors

Speed data collection continues to be automated during FY 1985, with all speed data being collected by non-radar unattended recording equipment.

In addition to the attached tabulations, the figures also describe speed data collection during FY 1985.

NATIONWIDE:

Total number of speeds recorded: 49,198,837

SPEED MONITORING LOCATIONS:

Total nationwide: 1,782
Range: 6.8 (Delaware) to 105 (California)
Average: 35 per State*

SPEED MONITORING SESSIONS:

Total Nationwide: 3,984
Range: 17 (Delaware) to 200 (Texas)
Average: 78 per State*

Comparing statewide* percent exceeding 55 mph figures for FY 1985 with FY 1984 shows the following:

FY 1985 vs FY 1984 Statewide percent exceeding 55 mph

49 States and Puerto Rico reporting*

33 increases - range: +0.2 to 12.9 percentage points
Average +3.8 points

16 decreases - range: -0.1 to 11.0 percentage points
Average: -7.3 points

The combined average change was +1.4 percentage points.

The trend in speeds for FY 1985 was up. Statewide average figures for all 6 speed statistics reported, increased in FY 1985 over FY 1984.

National Average Statewide Figures for:	FY 1984	FY 1985*	Change
UNADJUSTED PERCENT EXCEEDING 55 MPH	56.2	57.3	+1.1
AVERAGE SPEED (MPH)	55.9	56.1	+0.2
MEDIAN SPEED (MPH)	56.0	56.3	+0.3
85th PERCENTILE SPEED (MPH)	62.7	63.1	+0.4
PERCENT EXCEEDING 60 MPH	27.0	28.2	+1.2
PERCENT EXCEEDING 65 MLPH	9.2	10.0	+0.8
ADJUSTED PERCENT EXCEEDING 55 MP	42.0	43.2	+1.2

Focusing further on the percent exceeding 55 mph shows that the national average 55 mph noncompliance figure increased in all 6 functional categories monitored in FY 1985 from FY 1984.

National Average Percent Exceeding 55 MPH

Functional Grouping	FY 1984	FY 1985*	Change
Urban Interstate	63.3	64.1	+0.8
Urban other Freeways and Expressways	59.0	60.2	+1.2
Urban other Arterials	37.1	41.9	+4.8
Rural Interstate	75.3	75.6	+0.3
Rural other Arterials	49.5	50.3	+0.8
Rural Major Collectors	36.2	37.9	+1.7

A review of attachment #2 shows that in compiling a national average unadjusted percent exceeding 55 mph figure of 57.3, 43 States values greater than 50 percent, 21 States reported over 60 percent 2 States over 70 percent exceeding 55 mph.

During FY 1985, 8,449,085 citations were issued for exceeding 55 mph. This was approximately 5 percent or 431,981 more than in FY 1984. This represents the most citations issued for 55 mph violations since FY 1981.

The perceptions many people have of how fast other vehicles are traveling is often made under rural freeway driving conditions, i.e., on rural Interstate highways. Again reviewing Attachment #2, we find that in compiling a national average figure of 75.6 for rural Interstates, only two states (Connecticut at 47.7 and New Jersey at 44.0) were under 50 percent. Of the remaining 45 states included in this analysis* 9 were between 60 and 70 percent, 16 between 70 and 80 percent and 20 over 80 percent exceeding 55 mph on rural Interstate highways. It is important to note that the national average of 75.6 percent exceeding 55 mph on rural Interstate, includes a value of 43.1 percent for Puerto Rico. This represents mileage added to the Interstate system under 23 U.S.C. 139 (c). If the Puerto Rico value is excluded from the national average - which best reflects consistency with previous years data - the national average increases to 76.3 percent.

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* All State of Maryland data is still under review, therefore no Maryland speed data are included in these comparisons.

STATE	FY 85 SPEED LIMIT ENFORCEMENT CERTIFICATION DATA*		
	PERCENT EXCEEDING 55 MPH	HIGHWAY MILEAGE SUBJECT TO SPEED MONITORING	CITATIONS ISSUED FOR 55 MPH VIOLATIONS
ALABAMA	43.1	16,581.5	118,339
ALASKA	42.6	1755.9	12,887
ARIZONA	56.4	5028.4	168,439
ARKANSAS	40.2	13,889.4	90,321
CALIFORNIA	49.7	24,703	1,053,104
COLORADO	46.5	6393	89,467
CONNECTICUT	36.8	480.3	144,121
DELAWARE	40.1	183.09	24,873
DIST OF COL	-	-	-
FLORIDA	47.6	12,411	341,638
GEORGIA	40.7	27,004	246,715
HAWAII	31.1	280.3	7,510
IDAHO	37.8	4305.1	57,796
ILLINOIS	37.0	14,214	183,203
INDIANA	41.7	11,091	111,263
IOWA	39.1	22,247	143,442
KANSAS	44.0	19,054	159,423
KENTUCKY	32.3	11,195	100,979
LOUISIANA	45.5	9929	170,638
MAINE	49.7	1303.1	25,153
MARYLAND	***	901.3	163,864
MASSACHUSETTS	48.5	948.49	197,204
MICHIGAN	49.8	23,750	164,464
MINNESOTA	39.2	24,452	113,903
MISSISSIPPI	47.0	17,252	178,256
MISSOURI	47.7	24,943.6	218,145
MONTANA	46.6	9451	82,474
NEBRASKA	43.3	12,220	90,798
NEVADA	49.9	4331.9	63,064
NEW HAMPSHIRE	50.4	654.1	36,984
NEW JERSEY	46.8	959	133,016
NEW MEXICO	47.4	7009	98,524
NEW YORK	45.6	14,510	260,005
NORTH CAROLINA	34.2	14,790	218,702
NORTH DAKOTA	49.7	10,116	49,240
OHIO	42.6	18,553.5	466,692
OKLAHOMA	44.3	12,197	130,191
OREGON	47.1	13,750	106,421
PENNSYLVANIA	36.8	10,684	233,123
PUERTO RICO	42.0 (32.3**)	150	47,577
RHODE ISLAND	54.0	81.2	26,331
SOUTH CAROLINA	36.5	12,256	218,561
SOUTH DAKOTA	39.1	13,656	41,710
TENNESSEE	40.5	14,324	187,425
TEXAS	45.3	53,807	973,205
UTAH	41.5	3963	115,932
VERMONT	53.2	371.1	35,747
VIRGINIA	29.5	14,753	201,459
WASHINGTON	43.1	4843	144,225
WEST VIRGINIA	26.5	7393.1	35,388
WISCONSIN	43.7	21,003	93,363
WYOMING	47.7	5612.5	73,776
NATIONAL	AVERAGE: 43.2	TOTAL: 575,793.88	TOTAL: 8,449,085

FOOTNOTES

* As reported by the States in the Certification of Speed Limit Enforcement. Submitted for the period October 1, 1984, to September 30, 1985.

** Puerto Rico only reported a nonadjusted figure of 42.0. The 32.3 in parenthesis is an adjusted figure calculated by HTO-31 (simplified method) for comparative purposes only.

*** Maryland's percent exceeding 55 mph is still under review.

DATE	COMPILED BY	CHECKED BY
February 1986	M.L. Vonder Embse - HTO-31	T.E. Klimek HTO-31

FY 85: PERCENT EXCEEDING 55 MPH - UNADJUSTED

STATE	URBAN I	URBAN OF&E	URBAN OTHER ART.	RURAL I	RURAL OTHER ART	RURAL MAJOR COLL.	STATEWIDE VALUE
ALABAMA	65.2	N.M.	47.3	89.1	53.5	39.8	57.9
ALASKA	N.M.	N.M.	66.0	N.M.	61.1	20.9	57.5
ARIZONA	66.1	N.M.	N.M.	81.4	72.2	42.1	72.4
ARKANSAS	63.2	81.7	N.M.	77.8	46.6	36.2	53.0
CALIFORNIA	70.1	60.2	32.3	86.1	57.0	54.0	63.8
COLORADO	58.5	80.6	N.M.	73.4	58.1	40.8	62.1
CONNECTICUT	51.6	45.4	N.M.	47.7	58.4	N.M.	50.3
DELAWARE	57.0	N.N.	N.M.	N.M.	57.9	N.M.	57.5
DIST OF COL	-	-	-	-	-	-	-
FLORIDA	38.7	N.M.	66.8	86.8	62.8	42.5	61.5
GEORGIA	62.0	59.4	33.4	83.0	39.1	21.0	51.9
HAWAII	58.4	N.M.	N.M.	67.4	29.0	19.1	43.4
IDAHO	61.3	N.M.	N.M.	69.3	40.3	38.4	51.9
ILLINOIS	58.1	69.8	38.4	65.1	40.7	36.5	51.7
INDIANA	75.0	76.5	38.3	82.7	47.2	37.3	56.1
IOWA	41.8	N.M.	N.M.	78.0	52.7	52.8	57.0
KANSAS	75.8	78.6	43.9	85.2	53.7	40.2	61.1
KENTUCKY	49.8	N.M.	12.2	63.1	50.6	25.4	45.1
LOUISIANA	58.9	N.M.	40.9	79.4	56.4	36.0	54.0
MAINE	71.4	76.4	N.M.	85.1	45.8	35.4	66.0
MARYLAND *	-	-	-	-	-	-	-
MASSACHUSETTS	64.0	54.3	68.1	80.5	61.9	N.M.	63.7
MICHIGAN	68.8	76.5	62.7	84.7	67.8	41.7	65.2
MINNESOTA	62.4	51.5	60.9	63.4	53.8	32.4	53.9
MISSISSIPPI	78.7	N.M.	N.M.	78.2	52.5	33.3	54.9
MISSOURI	64.9	59.3	N.M.	82.7	56.1	46.6	61.5
MONTANA	65.1	N.M.	N.M.	74.4	54.6	31.9	59.7
NEBRASKA	68.6	N.M.	N.M.	86.5	54.9	41.9	61.9
NEVADA	55.3	52.4	35.6	80.8	66.1	40.4	64.4
NEW HAMPSHIRE	72.4	75.7	47.3	83.7	37.8	43.5	64.5
NEW JERSEY	55.0	67.3	41.6	44.0	54.6	N.M.	56.4
NEW MEXICO	82.5	N.M.	19.7	81.3	47.2	52.4	64.7
NEW YORK	79.2	63.0	44.9	89.7	34.4	42.2	58.6
NORTH CAROLINA	64.8	46.1	N.M.	76.7	44.1	38.0	49.8
NORTH DAKOTA	67.9	N.M.	N.M.	77.6	66.4	62.6	68.5
OHIO	68.1	48.0	55.9	72.9	56.8	23.0	57.0
OKLAHOMA	59.0	48.0	N.M.	78.4	50.5	50.4	56.3
OREGON	83.3	49.8	31.6	85.3	53.7	25.4	60.7
PENNSYLVANIA	75.7	59.5	35.7	68.8	33.5	33.9	50.8
PUERTO RICO	35.6	42.9	N.M.	43.1	47.0	N.M.	42.0
RHODE ISLAND	74.2	58.3	N.M.	79.0	N.M.	N.M.	73.3
SOUTH CAROLINA	72.4	N.M.	18.2	77.0	48.5	20.3	50.0
SOUTH DAKOTA	44.8	N.M.	24.8	61.5	44.8	32.1	46.8
TENNESSEE	69.4	N.M.	53.4	84.5	46.8	11.8	55.1
TEXAS	65.3	52.9	28.9	83.7	61.8	42.4	60.0
UTAH	67.4	46.5	37.0	60.3	38.5	77.4	56.2
VERMONT	49.7	N.M.	N.M.	76.3	51.8	N.M.	69.5
VIRGINIA	64.0	41.2	36.8	72.0	27.0	15.9	42.0
WASHINGTON	71.9	61.9	N.M.	78.5	35.2	58.4	61.6
WEST VIRGINIA	61.5	N.M.	45.7	65.9	28.8	22.3	39.7
WISCONSIN	78.7	62.1	N.M.	81.9	56.0	45.3	60.5
WYOMING	67.5	N.M.	N.M.	74.0	48.2	43.7	59.9
AVERAGE	64.1	60.2	41.9	75.6	50.3	37.9	57.3

FOOTNOTES

N.M. - No Speed Monitoring Required.
*Maryland's Annual Speed Summary is still under review.

DATE February 1986	COMPILED BY M.L. Vonder Embse HTO-31	CHECKED BY T.E. Klimek HTO-31

FY 85: STANDARD ERROR OF THE PERCENT EXCEEDING 55 MPH

STATE	URBAN			RURAL			STATEWIDE	
	I	OF&E	OTHER ART.	I	OTHER ART.	MAJOR COLL.	S(pst)*	d*
ALABAMA							3.6	6.1
ALASKA	N.M.	N.M.	0	N.M.	4.95	13.70	4.03	6.84
ARIZONA	2.13	N.M.	N.M.	2.19	4.65	8.54	1.85	3.12
ARKANSAS							3.1	5.2
CALIFORNIA	3.449	6.241	6.258	2.775	8.020	12.726	2.6	4.3
COLORADO								
CONNECTICUT							3.06	5.22
DELAWARE	6.55	N.M.	N.M.	N.M.	3.72	N.M.	3.52	6.83
DIST OF COL	-	-	-	-	-	-	-	-
FLORIDA	3.16	N.M.	2.87	1.74	2.92	4.60	1.4	2.39
GEORGIA	4.78	5.47	4.93	4.50	8.61	6.17	3.1	5.24
HAWAII							3.29	5.83
IDAHO							2.76	4.67
ILLINOIS	3.99	13.97	2.91	2.19	9.36	1.47	3.03	5.07
INDIANA	4.10	1.89	6.61	3.00	6.90	4.25	2.80	4.73
IOWA	7.59	N.M.	N.M.	1.99	5.17	4.92	2.96	5.00
KANSAS							2.63	4.44
KENTUCKY	14.3	N.M.	2.00	2.74	4.53	3.42	2.70	4.58
LOUISIANA	8.08	N.M.	12.54	2.35	4.87	6.28	2.85	4.81
MAINE	4.95	1.84	N.M.	2.11	10.70	2.16	4.27	7.27
MARYLAND								
MASSACHUSETTS								
MICHIGAN								
MINNESOTA								
MISSISSIPPI	0.38	N.M.	N.M.	2.39	5.41	7.43	3.145	5.321
MISSOURI							2.83	4.791
MONTANA	8.13	N.M.	N.M.	3.28	4.29	13.11	2.83	4.78
NEBRASKA								
NEVADA	2.26	5.10	8.05	3.72	4.29	5.49	1.9	3.20
NEW HAMPSHIRE	3.73	4.99	4.78	2.76	5.85	4.63	2.196	3.726
NEW JERSEY								
NEW MEXICO							5.077	8.595
NEW YORK								
NORTH CAROLINA							3.4	5.75
NORTH DAKOTA								
OHIO	2.59	7.17	15.87	5.58	4.33	6.12	2.506	4.2
OKLAHOMA								
OREGON							4.46	7.55
PENNSYLVANIA	4.00	11.51	12.68	10.14	5.75	5.08	3.65	6.2
PUERTO RICO	0.75	3.98	N.M.	9.01	4.42	N.M.	2.89	5.24
RHODE ISLAND							5.40	10.0
SOUTH CAROLINA							3.4	5.7
SOUTH DAKOTA								
TENNESSEE							2.62	4.44
TEXAS							1.68	2.73
UTAH	6.22	7.49	8.79	7.54	7.00	8.98	7.30	12.35
VERMONT								
VIRGINIA							4.37	7.38
WASHINGTON	5.95	5.69	N.M.	5.62	6.59	7.38	3.29	5.57
WEST VIRGINIA							4.01	6.596
WISCONSIN							3.92	6.63
WYOMING								
MEDIAN VALUE	4.05	5.58	6.258	2.85	5.17	6.12	3.06	5.22

FOOTNOTES

N.M. - No Speed Monitoring Required
*: S(pst) - Standard Error of the Percent Exceeding 55 MPH Estimate
d- Actual Achieved Precision

DATE	COMPILED BY	CHECKED BY
February 1986	M.L. Vonder Embse HTO-31	T.E. Klimek HTO-31

FY 85: AVERAGE SPEED (MPH)

STATE	URBAN			RURAL			STATEWIDE VALUE
	I	OF&E	OTHER ART.	I	OTHER ART.	MAJOR COLL.	
ALABAMA	57.8	N.M.	54.4	62.5	55.3	53.5	56.5
ALASKA	N.M.	N.M.	55.9	N.M.	56.5	50.4	55.7
ARIZONA	55.2	N.M.	N.M.	59.6	58.0	54.0	57.7
ARKANSAS	56.4	60.4	N.M.	60.7	54.1	54.5	56.0
CALIFORNIA	57.6	57.2	53.9	61.4	58.2	56.3	57.7
COLORADO	56.2	60.4	N.M.	58.9	56.3	51.9	56.8
CONNECTICUT	55.6	54.5	N.M.	54.7	56.9	N.M.	55.3
DELAWARE	56.7	N.M.	N.M.	N.M.	56.4	N.M.	56.6
DIST OF COL.	-	-	-	-	-	-	-
FLORIDA	53.6	N.M.	58.4	61.3	57.6	54.4	56.6
GEORGIA	57.8	58.0	52.8	61.8	54.5	51.0	56.4
HAWAII	56.9	N.M.	N.M.	58.0	52.3	53.0	54.8
IDAHO	56.4	N.M.	N.M.	58.9	53.0	54.1	55.5
ILLINOIS	56.0	58.5	53.6	57.7	53.6	53.0	55.3
INDIANA	59.1	59.4	53.3	60.6	51.6	52.7	55.0
IOWA	53.9	N.M.	N.M.	59.3	55.1	55.3	55.9
KANSAS	59.7	60.4	54.8	60.5	55.4	52.9	56.7
KENTUCKY	52.2	N.M.	44.1	57.2	55.3	47.7	52.8
LOUISIANA	57.9	N.M.	52.6	59.5	56.2	51.8	55.5
MAINE	58.6	59.3	N.M.	61.0	54.6	53.0	57.9
MARYLAND *	-	-	-	-	-	-	-
MASSACHUSETTS	57.7	55.5	54.6	60.0	57.1	N.M.	57.5
MICHIGAN	61.3	59.5	56.9	62.9	53.3	54.0	57.4
MINNESOTA	55.6	55.0	57.5	56.5	55.1	50.3	54.7
MISSISSIPPI	60.0	N.M.	N.M.	59.8	55.7	52.0	55.9
MISSOURI	57.8	57.1	N.M.	60.9	56.2	53.5	57.0
MONTANA	57.4	N.M.	N.M.	60.4	56.1	48.5	56.9
NEBRASKA	55.4	N.M.	N.M.	60.7	54.4	53.6	55.9
NEVADA	56.2	56.0	53.8	60.1	57.8	54.4	57.7
NEW HAMPSHIRE	59.1	59.3	55.2	61.4	53.9	54.4	58.1
NEW JERSEY	55.6	57.3	53.5	54.3	55.3	N.M.	55.7
NEW MEXICO	59.9	N.M.	48.4	61.2	53.2	57.4	57.3
NEW YORK	60.0	56.5	54.4	62.4	52.1	53.4	56.4
NORTH CAROLINA	56.9	54.5	N.M.	58.7	53.9	52.7	54.7
NORTH DAKOTA	57.1	N.M.	N.M.	58.7	57.2	56.4	57.4
OHIO	56.4	54.3	56.6	58.1	55.8	53.4	56.0
OKLAHOMA	57.1	55.0	N.M.	60.6	55.3	56.2	56.7
OREGON	60.7	54.8	52.1	60.8	55.7	50.6	56.7
PENNSYLVANIA	59.8	56.6	52.0	59.1	52.3	52.5	55.4
PUERTO RICO	52.7	53.9	N.M.	52.8	54.3	N.M.	53.4
RHODE ISLAND	59.5	56.8	N.M.	60.1	N.M.	N.M.	59.3
SOUTH CAROLINA	56.1	N.M.	49.4	59.1	55.5	48.4	54.6
SOUTH DAKOTA	56.6	N.M.	52.7	60.1	56.5	55.5	57.2
TENNESSEE	59.0	N.M.	56.0	60.5	53.9	50.1	56.0
TEXAS	57.2	55.9	53.1	61.6	57.1	50.3	56.4
UTAH	56.7	53.2	51.3	54.1	51.7	59.8	54.4
VERMONT	55.4	N.M.	N.M.	59.4	55.7	N.M.	58.4
VIRGINIA	54.0	53.7	53.3	59.7	46.7	51.0	52.0
WASHINGTON	57.8	56.6	N.M.	59.1	53.3	56.6	56.7
WEST VIRGINIA	56.6	N.M.	53.7	60.3	50.9	43.7	51.9
WISCONSIN	60.3	56.8	N.M.	60.5	56.3	53.5	56.9
WYOMING	57.8	N.M.	N.M.	59.6	55.0	54.3	57.1
AVERAGE	57.2	56.8	53.5	59.5	54.9	52.9	56.1

FOOTNOTES

N.M. - No Speed Monitoring Required.

*Maryland's Speed Summary is still under review.

DATE February 1986	COMPILED BY M.L. Vonder Embse HTO-31	CHECKED BY T.E. Klimek HTO-31

FY 35: MEDIAN SPEED (MPH)

STATE	URBAN			RURAL			STATEWIDE VALUE
	I	OF&E	OTHER ART.	I	OTHER ART.	MAJOR COLL.	
ALABAMA	55.4	N.M.	54.5	61.8	55.5	53.3	56.0
ALASKA	N.M.	N.M.	57.1	N.M.	56.9	50.5	56.2
ARIZONA	57.5	N.M.	N.M.	60.0	58.5	55.0	58.6
ARKANSAS	56.6	60.0	N.M	60.4	54.5	54.3	56.0
CALIFORNIA	58.9	58.2	54.4	62.0	60.2	56.8	58.9
COLORADO	56.5	60.1	N.M.	59.0	56.4	53.4	57.1
CONNECTICUT	55.3	54.2	N.M.	54.3	56.6	N.M.	55.0
DELAWARE	56.1	N.M.	N.M.	N.M.	56.1	N.M.	56.1
DIST OF COL	-	-	-	-	-	-	-
FLORIDA	52.9	N.M.	58.0	61.0	57.1	53.6	56.9
GEORGIA	57.5	56.8	50.3	60.8	52.3	49.3	55.1
HAWAII	57.3	N.M.	N.M.	58.7	52.7	53.1	55.1
IDAHO	57.4	N.M.	N.M.	59.9	54.1	56.2	56.7
ILLINOIS	56.4	57.7	53.0	57.1	53.4	53.0	55.2
INDIANA	58.4	58.6	53.0	59.5	54.5	52.8	55.9
IOWA	53.5	N.M.	N.M.	58.6	55.4	55.5	55.9
KANSAS	60.1	60.9	55.8	60.8	56.2	54.0	57.4
KENTUCKY	55.0	N.M.	46.6	56.9	55.1	49.8	53.7
LOUISIANA	58.1	N.M.	53.5	59.5	56.8	52.5	55.9
MAINE	59.0	59.7	N.M.	61.3	55.2	53.6	58.3
MARYLAND *	-	-	-	-	-	-	-
MASSACHUSETTS	57.8	56.0	55.2	59.7	57.3	N.M.	57.7
MICHIGAN	62.4	60.0	58.0	63.4	54.0	54.7	58.1
MINNESOTA	56.8	54.7	57.4	56.1	55.2	51.5	55.1
MISSISSIPPI	57.9	N.M.	N.M.	57.5	53.4	48.9	53.4
MISSOURI	58.5	57.5	N.M.	61.2	56.7	53.3	57.4
MONTANA	58.1	N.M.	N.M.	60.9	57.1	48.3	57.6
NEBRASKA	57.1	N.M.	N.M.	59.3	55.1	54.4	56.2
NEVADA	56.7	56.4	54.0	61.7	58.5	47.1	57.6
NEW HAMPSHIRE	59.6	60.2	55.6	62.0	54.3	55.0	58.6
NEW JERSEY	54.9	56.6	52.8	53.4	55.0	N.M.	55.1
NEW MEXICO	60.3	N.M.	47.7	61.0	52.6	58.4	57.1
NEW YORK	60.1	57.2	54.1	62.0	52.6	53.7	56.6
NORTH CAROLINA	57.8	55.4	N.M.	59.3	54.9	53.8	55.6
NORTH DAKOTA	57.4	N.M.	N.M.	58.8	57.4	57.2	57.7
OHIO	58.3	56.7	57.8	59.1	57.2	55.8	57.7
OKLAHOMA	57.0	55.0	N.M.	61.0	57.0	57.0	57.6
OREGON	60.2	54.4	51.9	60.3	55.2	50.1	56.3
PENNSYLVANIA	60.1	57.5	52.9	59.3	53.1	53.3	56.0
PUERTO RICO	52.9	54.4	N.M.	53.6	55.3	N.M.	54.0
RHODE ISLAND	60.0	57.1	N.M.	60.2	N.M.	N.M.	59.7
SOUTH CAROLINA	55.7	N.M.	49.8	58.8	55.7	48.7	54.6
SOUTH DAKOTA	54.2	N.M.	50.3	57.4	54.0	53.0	54.7
TENNESSEE	58.3	N.M.	55.6	59.4	53.8	44.0	54.4
TEXAS	56.8	55.7	52.6	61.0	57.1	50.1	56.1
UTAH	56.8	54.0	51.6	55.5	52.4	60.3	55.1
VERMONT	55.5	N.M.	N.M.	59.5	55.8	N.M.	58.5
VIRGINIA	55.0	54.0	53.0	59.0	48.0	52.0	52.7
WASHINGTON	56.0	57.0	N.M.	59.0	53.3	56.8	56.7
WEST VIRGINIA	57.5	N.M.	54.1	60.5	52.3	43.8	52.6
WISCONSIN	60.7	57.5	N.M.	60.3	56.4	54.7	57.2
WYOMING	58.5	N.M.	N.M.	60.4	55.5	54.8	57.7
AVERAGE	57.4	57.0	53.6	59.4	55.2	53.0	56.3

FOOTNOTES

N.M. - No Speed Monitoring Required
*Maryland's Annual Summary is still under review.

DATE February 1986	COMPILED BY M.L. Vonder Embse HTO-31	CHECKED BY T.E. Klimek HTO-31

FY 85: 85th PERCENTILE SPEED (MPH)

STATE	URBAN I	URBAN OF&E	URBAN OTHER ART.	RURAL I	RURAL OTHER ART.	RURAL MAJOR COLL.	STATEWIDE VALUE
ALABAMA	61.4	N.M.	61.2	69.0	62.0	59.8	62.6
ALASKA	N.M.	N.M.	63.6	N.M.	63.1	57.2	62.5
ARIZONA	63.4	N.M.	N.M.	65.8	64.7	61.3	64.6
ARKANSAS	63.4	67.8	N.M.	68.5	61.5	63.2	63.6
CALIFORNIA	65.9	64.7	60.9	67.7	64.9	63.4	65.2
COLORADO	62.3	66.2	N.M.	65.2	62.7	60.3	63.3
CONNECTICUT	62.5	61.4	N.M.	61.7	63.7	N.M.	62.2
DELAWARE	62.7	N.M.	N.M.	N.M.	61.8	N.M.	62.2
DIST OF COL.	-	-	-	-	-	-	-
FLORIDA	59.9	N.M.	65.1	66.7	64.2	61.7	63.8
GEORGIA	64.5	62.8	60.5	67.5	62.0	56.0	62.8
HAWAII	63.8	N.M.	N.M.	65.2	59.4	60.8	61.8
IDAHO	63.3	N.M.	N.M.	65.6	60.0	63.7	62.7
ILLINOIS	63.7	64.4	60.1	63.6	60.2	59.2	62.1
INDIANA	64.4	65.0	59.3	66.2	55.9	59.4	61.7
IOWA	60.7	N.M.	N.M.	66.2	60.0	62.6	61.8
KANSAS	67.2	66.6	61.1	66.8	61.6	61.2	63.5
KENTUCKY	63.1	N.M.	54.3	63.7	62.2	58.1	61.2
LOUISIANA	65.7	N.M.	60.0	65.1	63.4	59.9	62.7
MAINE	65.2	65.6	N.M.	67.7	63.1	60.3	65.3
MARYLAND *	-	-	-	-	-	-	-
MASSACHUSETTS	64.9	62.3	62.2	66.2	64.4	N.M.	64.7
MICHIGAN	69.2	65.6	64.2	69.7	60.3	60.7	64.3
MINNESOTA	61.9	60.4	63.4	61.8	61.2	59.8	61.2
MISSISSIPPI	64.2	N.M.	N.M.	64.1	60.6	58.6	61.1
MISSOURI	66.9	64.8	N.M.	68.3	65.2	64.0	65.9
MONTANA	64.4	N.M.	N.M.	68.3	64.5	56.4	65.1
NEBRASKA	62.4	N.M.	N.M.	64.0	59.4	59.8	60.8
NEVADA	62.7	63.4	60.1	69.0	65.3	61.6	65.4
NEW HAMPSHIRE	66.5	66.4	60.7	69.0	60.4	61.1	65.2
NEW JERSEY	61.2	61.6	58.9	59.1	61.1	N.M.	60.9
NEW MEXICO	69.1	N.M.	57.8	71.7	62.1	71.1	67.1
NEW YORK	66.5	63.9	62.0	68.1	59.3	60.7	63.4
NORTH CAROLINA	63.2	60.7	N.M.	65.0	61.3	60.5	61.8
NORTH DAKOTA	63.1	N.M.	N.M.	64.3	63.6	65.2	64.0
OHIO	64.4	62.0	64.1	64.6	62.0	61.5	63.3
OKLAHOMA	63.0	61.0	N.M.	67.0	63.0	63.0	63.6
OREGON	66.2	60.7	58.3	66.1	62.2	57.3	62.8
PENNSYLVANIA	67.9	63.3	61.4	67.9	60.1	60.4	63.6
PUERTO RICO	61.9	63.8	N.M.	65.5	64.1	N.M.	63.9
RHODE ISLAND	66.9	64.4	N.M.	67.7	N.M.	N.M.	66.7
SOUTH CAROLINA	61.4	N.M.	54.9	64.3	60.8	55.1	60.2
SOUTH DAKOTA	60.1	N.M.	57.1	64.0	60.1	60.6	61.2
TENNESSEE	65.5	N.M.	62.7	67.3	60.0	53.0	61.8
TEXAS	65.0	64.0	59.3	68.6	64.0	59.5	63.9
UTAH	62.3	60.0	59.8	62.6	57.0	67.2	61.2
VERMONT	61.6	N.M.	N.M.	65.7	62.5	N.M.	64.7
VIRGINIA	62.0	60.0	60.0	65.0	57.0	59.0	60.2
WASHINGTON	63.5	62.3	N.M.	64.6	59.6	63.8	62.5
WEST VIRGINIA	64.8	N.M.	61.9	67.6	59.8	53.3	60.5
WISCONSIN	67.5	63.2	N.M.	66.0	62.1	61.8	63.2
WYOMING	65.0	N.M.	N.M.	68.7	65.4	63.1	66.6
AVERAGE	64.0	63.4	60.5	66.1	61.7	60.6	63.1

FOOTNOTES

N:M. - No Speed Monitoring Required.

* Maryland's Annual Summary is still under review.

DATE February 1986

COMPILED BY M.L. Vonder Embse HTO-31

CHECKED BY T.E. Klimek HTO-31

FY 85: PERCENT EXCEEDING 60 MPH

STATE	URBAN I	URBAN OF&E	URBAN OTHER ART.	RURAL I	RURAL OTHER ART.	RURAL MAJOR COLL.	STATEWIDE VALUE
ALABAMA	33.8	N.M.	18.5	61.1	21.2	14.0	28.3
ALASKA	N.M.	N.M.	31.2	N.M.	29.7	9.2	27.7
ARIZONA	33.7	N.M.	N.M.	50.1	37.7	17.7	40.4
ARKANSAS	26.4	49.6	N.M.	51.4	18.7	23.4	27.8
CALIFORNIA	37.7	32.6	12.4	57.5	34.8	22.5	35.6
COLORADO	24.8	49.0	N.M.	42.6	27.5	14.5	30.9
CONNECTICUT	23.1	18.7	N.M.	20.3	28.2	N.M.	22.2
DELAWARE	24.2	N.M.	N.M.	N.M.	20.9	N.M.	22.4
DIST OF COL.	-	-	-	-	-	-	-
FLORIDA	14.6	N.M.	39.1	57.2	32.6	19.1	33.7
GEORGIA	33.5	28.8	15.8	54.4	21.8	7.0	29.5
HAWAII	26.3	N.M.	N.M.	34.9	10.5	8.5	18.8
IDAHO	23.4	N.M.	N.M.	42.3	9.0	23.2	23.7
ILLINOIS	28.0	32.9	15.1	28.3	15.4	10.7	22.3
INDIANA	38.2	40.2	11.2	46.6	14.4	11.7	23.8
IOWA	16.5	N.M.	N.M.	39.1	14.7	22.4	21.3
KANSAS	44.1	49.6	14.6	47.7	16.5	15.5	26.9
KENTUCKY	25.0	N.M.	2.7	28.6	21.1	8.9	19.4
LOUISIANA	33.3	N.M.	12.5	42.4	25.4	14.8	25.8
MAINE	35.7	40.4	N.M.	51.8	20.6	11.7	36.1
MARYLAND *	-	-	-	-	-	-	-
MASSACHUSETTS	31.2	30.9	24.0	46.9	34.8	N.M.	33.2
MICHIGAN	59.4	43.1	29.5	67.6	11.3	13.4	34.3
MINNESOTA	26.5	15.4	29.8	31.5	25.3	16.5	24.6
MISSISSIPPI	49.5	N.M.	N.M.	46.8	23.3	16.3	28.5
MISSOURI	36.3	28.1	N.M.	47.4	30.2	26.3	33.9
MONTANA	28.4	N.M.	N.M.	49.3	27.8	7.7	33.4
NEBRASKA	33.9	N.M.	N.M.	49.1	15.1	15.0	24.7
NEVADA	20.8	23.3	11.0	54.4	34.4	16.4	35.5
NEW HAMPSHIRE	41.6	44.7	12.9	56.1	11.7	15.3	36.2
NEW JERSEY	24.3	31.4	12.5	14.4	23.2	N.M.	24.3
NEW MEXICO	45.8	N.M.	6.7	50.2	16.9	39.9	35.6
NEW YORK	50.5	33.0	20.4	64.7	11.8	16.7	32.6
NORTH CAROLINA	23.5	12.9	N.M.	36.8	15.6	12.6	18.6
NORTH DAKOTA	28.4	N.M.	N.M.	30.9	29.9	35.7	30.9
OHIO	32.1	20.1	29.6	35.6	20.9	17.1	27.2
OKLAHOMA	32.7	20.0	N.M.	52.5	27.5	26.2	31.8
OREGON	52.4	19.0	8.3	52.7	26.4	10.2	33.4
PENNSYLVANIA	44.6	25.5	15.9	39.8	10.8	12.5	24.8
PUERTO RICO	16.8	22.1	N.M.	26.6	23.9	N.M.	22.5
RHODE ISLAND	43.6	28.5	N.M.	44.3	N.M.	N.M.	42.2
SOUTH CAROLINA	27.4	N.M.	2.3	44.2	24.2	4.6	23.9
SOUTH DAKOTA	16.0	N.M.	7.8	34.2	17.1	16.2	21.3
TENNESSEE	39.2	N.M.	23.6	46.1	14.8	2.1	25.8
TEXAS	32.1	27.3	11.8	55.5	31.1	13.5	30.7
UTAH	31.5	19.0	15.7	27.3	12.0	51.9	25.4
VERMONT	17.9	N.M.	N.M.	43.2	21.1	N.M.	36.9
VIRGINIA	20.3	11.8	9.8	40.2	6.0	10.5	17.0
WASHINGTON	28.7	21.1	N.M.	37.6	10.7	26.7	24.7
WEST VIRGINIA	29.8	N.M.	17.0	46.8	9.8	3.1	18.4
WISCONSIN	47.2	21.2	N.M.	44.4	20.7	19.1	26.9
WYOMING	32.8	N.M.	N.M.	46.5	27.9	20.5	35.5
AVERAGE	32.0	29.1	16.5	44.2	21.2	16.8	28.2

FOOTNOTES

N.M. - No Speed Monitoring Required.

* Maryland's Annual Summary is still under review.

DATE	COMPILED BY	CHECKED BY
February 1986	H.L. Vonder Embse HTO-31	T.E. Klimek HTO-31

FY 85: PERCENT EXCEEDING 65 MPH

STATE	URBAN			RURAL			STATEWIDE VALUE
	I	OF&E	OTHER ART.	I	OTHER ART.	MAJOR COLL.	
ALABAMA	11.9	N.M.	4.3	29.4	5.7	4.6	10.4
ALASKA	N.M.	N.M.	11.6	N.M.	9.5	3.2	9.1
ARIZONA	9.8	N.M.	N.M.	18.1	12.7	5.9	13.7
ARKANSAS	8.9	22.3	N.M.	24.8	5.8	10.0	11.3
CALIFORNIA	11.7	8.6	2.9	20.4	9.6	6.7	10.6
COLORADO	6.9	18.3	N.M.	14.5	9.0	3.2	9.9
CONNECTICUT	6.7	5.7	N.M.	5.0	9.6	N.M.	6.5
DELAWARE	7.2	N.M.	N.M.	N.M.	4.6	N.M.	5.7
DIST OF COL	-	-	-	-	-	-	-
FLORIDA	4.8	N.M.	15.1	20.4	11.6	7.0	12.1
GEORGIA	12.5	12.3	6.3	23.3	8.5	2.5	11.9
HAWAII	8.5	N.M.	N.M.	11.5	3.8	5.3	6.5
IDAHO	5.4	N.M.	N.M.	12.9	1.7	7.7	6.7
ILLINOIS	10.1	12.5	4.4	9.4	4.9	2.9	7.6
INDIANA	12.0	14.9	2.3	17.8	3.3	3.0	7.4
IOWA	6.2	N.M	N.M.	17.1	3.3	7.9	7.2
KANSAS	18.7	21.0	3.0	16.5	4.1	5.1	9.0
KENTUCKY	8.8	N.M.	0.6	10.4	7.1	3.0	6.8
LOUISIANA	18.3	N.M.	2.5	12.9	9.4	3.2	8.8
MAINE	11.2	12.7	N.M.	19.2	7.2	3.4	12.9
MARYLAND *	-	-	-	-	-	-	-
MASSACHUSETTS	10.8	9.4	7.7	17.5	13.2	N.M.	11.5
MICHIGAN	27.0	12.4	6.7	30.5	2.6	3.5	13.2
MINNESOTA	7.3	2.7	11.9	14.3	10.5	6.3	9.3
MISSISSIPPI	19.9	N.M.	N.M.	19.3	7.5	5.7	10.5
MISSOURI	13.4	10.8	N.M.	25.6	13.5	13.9	16.8
MONTANA	8.4	N.M.	N.M.	21.3	9.7	2.9	13.0
NEBRASKA	11.2	N.M.	N.M.	15.4	3.5	4.2	7.0
NEVADA	4.3	6.1	2.3	24.6	12.2	5.4	13.7
NEW HAMPSHIRE	16.2	16.1	2.3	25.5	2.7	3.8	14.6
NEW JERSEY	6.3	8.7	2.2	3.3	5.1	N.M.	6.2
NEW MEXICO	20.5	N.M.	2.1	25.4	7.8	24.6	17.3
NEW YORK	19.4	10.1	6.8	27.3	2.7	4.9	11.7
NORTH CAROLINA	4.4	2.4	N.M.	9.4	3.7	3.9	4.6
NORTH DAKOTA	7.1	N.M.	N.M.	11.2	10.3	14.8	11.0
OHIO	8.6	4.5	7.8	8.8	3.9	4.0	6.7
OKLAHOMA	8.5	2.5	N.M.	15.7	6.5	6.3	8.1
OREGON	19.1	4.4	1.8	18.8	9.8	3.3	11.9
PENNSYLVANIA	20.0	6.7	5.2	18.8	3.0	4.3	10.0
PUERTO RICO	6.6	9.2	N.M.	13.6	9.7	N.M.	9.9
RHODE ISLAND	17.2	9.8	N.M.	17.8	N.M.	N.M.	16.6
SOUTH CAROLINA	5.5	N.M.	0.4	14.5	6.1	1.3	6.7
SOUTH DAKOTA	4.0	N.M.	1.8	12.7	4.9	6.6	7.2
TENNESSEE	16.1	N.M.	8.1	20.5	4.0	0.4	10.2
TEXAS	15.0	12.1	3.3	26.7	11.1	5.1	13.0
UTAH	9.4	4.7	3.7	10.0	3.2	27.8	8.7
VERMONT	4.2	N.M.	N.M.	15.3	5.9	N.M.	12.6
VIRGINIA	5.9	2.2	1.9	14.9	1.4	3.2	5.4
WASHINGTON	5.9	3.8	N.M.	10.0	2.8	9.0	5.8
WEST VIRGINIA	10.4	N.M.	6.5	19.1	2.4	1.0	6.7
WISCONSIN	21.7	9.4	N.M.	16.5	6.4	6.8	9.7
WYOMING	10.8	N.M.	N.M.	21.1	13.4	7.4	16.1
AVERAGE	11.2	9.5	4.8	17.3	6.8	6.2	10.0

FOOTNOTES

N.M. - No Speed Monitoring Required.

* Maryland's Annual Summary is still under review.

DATE February 1986 | COMPILED BY M.L. Vonder Embse HTO-31 | CHECKED BY T.E. Klimek HTO-31

FY 85: MILEAGE SUBJECT TO SPEED MONITORING

STATE	URBAN			RURAL			STATEWIDE VALUE*
	I	OTHER OF&E	OTHER ART.	I	OTHER ART.	MAJOR COLL.	
ALABAMA	182	N.M.	458.5	643	5338.4	9959.6	16,581.5
ALASKA	N.M.	N.M.	14.1	N.M.	1476.3	265.5	1755.9
ARIZONA	112.5	N.M.	N.M.	1052.2	2869.5	994.2	5028.4
ARKANSAS	121.4	39.2	N.M.	419.4	4954.1	8355.3	13,839.4
CALIFORNIA	933	1055	1633	1445	9217	10420	24,703
COLORADO	132	30	N.M.(34)	782	3276	2144	6398
CONNECTICUT	181.8	110.8	N.M.	106.9	80.8	N.M.	480.3
DELAWARE	34.7	N.M.	N.M.	N.M.	148.4	N.M.	183.1
DIST OF COL	-	-	-	-	-	-	-
FLORIDA	352	N.M.	786	928	5576	4769	12,411
GEORGIA	282.7	95.8	316.7	895.9	7630.6	11732.3	21,004.0
HAWAII	19.4	N.M.(2.9)	N.M.(1.3)	5.4	179.1	76.4	280.3 (284.5)
IDAHO	69.3	N.M.	N.M.	533.2	2266.5	1436.1	4305.1
ILLINOIS	413	78	410	1289	6750	5274	14,214
INDIANA	258	93	473	955	4097	5315	11,091
IOWA	123	N.M.	N.M.	614	8177	13333	22,247
KANSAS	156	46	92	654	7501	10605	19,054
KENTUCKY	146	N.M.	372	580	3145	6952	11,195
LOUISIANA	110	N.M.	121	535	2358	6805	9929
MAINE	25.1	18.1	N.M.(2.6)	278.1	735.5	243.7	1300.5 (1303.1)
MARYLAND	136.4	91.8	39.2	178.3	454.6	N.M. (.5)	900.8 (901.3)
MASSACHUSETTS	336.25	197.88	25.68	180.38	180.99	N.M.(2731)	921.18 (948.49)
MICHIGAN	420	204	273	719	6039	16095	23,750
MINNESOTA	170	67	276	697	8133	15109	24,452
MISSISSIPPI	114	N.M.	N.M. (50)	567	4919	11602	17,202 (17,252)
MISSOURI	308.4	141.2	N.M.	823.7	6098.5	17571.8	24,943.6
MONTANA	46	N.M.	N.M.	1089	5298	3018	9451
NEBRASKA	36	N.M.	N.M.	444	6634	5056	12,220
NEVADA	40	24.9	24.8	499.5	1668.3	2124.4	4381.9
NEW HAMPSHIRE	39.2	20.8	28.7	161	316.4	88	654.1
NEW JERSEY	242	200	98	127	266	N.M. (26)	933 (959)
NEW MEXICO	33	N.M.	70	916	2624	3316	7009
NEW YORK	522	461	1409	877	5642	5599	14,510
NORTH CAROLINA	155	260	N.M.	641	3545	10189	14,790
NORTH DAKOTA	38	N.M.	N.M.	533	5340	4205	10,116
OHIO	658.8	171.2	1272	889.1	4520	11047.4	18,558.5
OKLAHOMA	138	163	N.M.	673	5290	5933	12,197
OREGON	131	49	73	585	4459	8453	13,750
PENNSYLVANIA	313	284	660	1184	5171	3072	10,604
PUERTO RICO	30	39.3	N.M.	49.6	31.1	N.M.	150
RHODE ISLAND	29.3	22	N.M.	29.9	N.M.	N.M.	81.2
SOUTH CAROLINA	109	N.M.	185	647	4281	7034	12,256
SOUTH DAKOTA	42	N.M.	40	636	5712	7226	13,656
TENNESSEE	177	N.M.	166	827	4789	8365	14,324
TEXAS	893	490	1185	2263	14841	34135	53,807
UTAH	124	11	100	663	2040	1025	3963
VERMONT	34.5	N.M.	N.M.	285.8	50.8	N.M.	371.1
VIRGINIA	226	97	175	798	4524	8933	14,753
WASHINGTON	219	141	N.M.	452	3613	413	4843
WEST VIRGINIA	77.4	N.M.	275.4	389.5	2089.4	4561.4	7393.1
WISCONSIN	111	175	N.M.	466	7990	12261	21,003
WYOMING	28.9	N.M.	N.M.	889.1	2770	1924.5	5612.5
TOTALS	9630.05	4876.98	11,052.08	31,796.48	205,206.29	307,041.6	569,653.48 (569,922.09)

FOOTNOTES

N.M. - No Speed Monitoring Required.

* The Value in Parenthesis includes mileage shown for the Categories where Speed Monitoring is not Required.

DATE February 1986

COMPILED BY M.L. Vonder Embse HTO-31

CHECKED BY T.E. Klinek HTO-31

SPLASH AND SPRAY

SENATOR ANDREWS: What is the status of the proposed rulemaking regarding splash and spray suppression devices?

ANSWER: The National Highway Traffic Safety Administration (NHTSA) is currently reviewing comments to the Notice of Proposed Rulemaking (NPRM) published in April 1985. The extended comment period for this NPRM closed on August 12, 1985. However, the agency received numerous comments after that date and is giving special attention to several of these late-filed comments, particularly one from the Motor Vehicle Manufacturers Association (MVMA) which contained new field test data. Since these data were filed late last fall and contained original data that needed to be thoroughly reviewed to assess its impact on the splash and spray suppression rulemaking, the agency determined that additional time was necessary to thoroughly review this late data.

Our review of the docket comments revealed that many commenters were concerned about the adequacy (i.e., repeatability and reproducibility) of the required tunnel test. Also our early assessment of the MVMA data showed that the estimated effectiveness of the devices tested by MVMA was not consistent with estimates of effectiveness from other tests. For these reasons, the Department decided that additional short-term research was necessary to answer several remaining questions and to be responsive to docket comments.

The agency has initiated supplemental research projects and expects them to be completed this fall. They will respond to agency and commenter concern that the agency's tunnel test may not be repeatable or reproducible, will survey the aeroaid market, and will provide additional data on winter exposure of splash and spray devices.

The agency has also reopened the docket for a period of 60 days, until April 14, 1986, with an invitation for other concerned parties to review the late-filed data, analyze it and provide additional comments. Subsequent to the closing of the docket, the agency will finish analysis of the late-filed data, review additional comments to the reopened docket, and complete and analyze the short term research.

SENATOR ANDREWS: Why did NHTSA reopen the comment period regarding this ruling?

ANSWER: The agency reopened the comment period for this notice of proposed rulemaking to inform the public of the significant data received in late-filed comments and to invite comments and analysis of that data.

At least three commenters provided information containing new and relevant field data. This information is so significant to the understanding of the splash and spray suppression issue that the agency determined that further public comment should be elicited and further agency analysis was warranted.

SENATOR ANDREWS: Is there any more testing currently being conducted by the National Highway Traffic Safety Administration in this area?

ANSWER: Yes. The agency is examining the spray tunnel test to determine its repeatability and reproducibility.

In light of the MVMA test results, the agency is also conducting a survey of truck aerodynamic devices, who makes them, how many are sold, what do they cost, etc. and is also obtaining in-use data on the number of tractor-trailer combinations equipped with aerodynamic devices.

The agency has also obtained the cooperation of the United Parcel Service Corporation to obtain further winter experience data on the splash and spray suppression devices on their vehicles over the 1985-86 winter season.

SENATOR ANDREWS: How much has the National Highway Traffic Safety Administration spent on testing in this area? (by year, amount and source of funds)?

ANSWER: The agency has spent the following funds for splash and spray related research from the operations and research appropriations:

FY	AMOUNT	SOURCE OF FUNDS
74	$ 20,000	Research and Analysis, Motor Vehicle Research
.		
.		
.		
80	50,000	Research and Analysis, Motor Vehicle Research
81	130,929	Research and Analysis, Motor Vehicle Research
82	90,086	Research and Analysis, Motor Vehicle Research
83	--	
84	231,789	Resarch and Analysis, Motor Vehicle Research
85	--	
86	$ 85,684	Vehicle Safety Standards, Standards Development Funds (Rulemaking Quick Reaction Testing)
	$ 608,488	

SENATOR ANDREWS: What are tests in the National Highway Traffic Safety Administration (NHTSA) relying on or considering in their analysis?

ANSWER: The five most significant testing data sources being considered by the agency are:

1) 1977 Federal Highway Administration Fort Stockton tests
2) 1983-84 NHTSA Ohio tests
3) 1984 NHTSA Fort Stockton tests
4) 1984 Motor Vehicle Manufacturers Association (MVMA)-- Phase I tests
5) 1985 MVMA - Phase II tests

The agency is currently reviewing and analyzing the data from these tests, which utilized several combinations of splash and spray reduction devices, tractors and trailers.

SENATOR ANDREWS: When does the National Highway Traffic Safety Administration expect to make a ruling in this area?

ANSWER: The agency is currently analyzing all docket comments, including those filed late last Fall and will also analyze comments to the reopened docket. Also, the agency is conducting short-term research projects in order to better answer those questions related to spray tunnel repeatability and reproducibility, aeroaid usage, and winter testing. The agency anticipates these projects and reviews will be completed by late fall of this year at which time we will be better able to make a final determination on this issue.

RULEMAKING

SENATOR ANDREWS: What is the present rulemaking agenda of NHTSA?

ANSWER: The Semiannual Regulatory Agenda contains the regulations which the agency plans to initiate or issue. This compilation provides a description and milestones for the rulemaking activity scheduled over the next few years. The Agenda scheduled for publication in April 1986 will show the regulatory activity for fiscal year 1986 and, in the case of some initiatives, those with fiscal year 1987 dates. A copy of this Agenda will be provided to the Committee as soon as it becomes available. The most recent published version (October 1985) follows for your reference.

In addition, our Regulatory Program sets out the Administration's policies, goals and priorities and it is published in April of each year. The 1985 Regulatory Program is also attached and we will provide the 1986 version as quickly as it becomes available.

SENATOR ANDREWS: Please list the subject matter, status of the proceedings and estimated dates for moving to the next step in the process.

ANSWER: Please see answer to previous question.

SENATOR ANDREWS: What new rulemaking does NHTSA expect to be initiated for the rest of this Fiscal Year 1986 and for Fiscal Year 1987?

ANSWER: Please see answer to previous question.

[CLERK'S NOTE.—The Semiannual Regulatory Agenda referred to in the previous answers is not printed here but can be reviewed in the October 29, 1985, Federal Register, pp. 44446–62. The Regulatory Program can be reviewed in the 1985 Regulatory Program of the United States Government, pp. 400–13.]

SLEEP DISORDER

SENATOR ANDREWS: In last year's report this Committee asked NHTSA to survey its available data regarding sleep disorders and how they contribute to accidents, injury and deaths. Has the agency been able to isolate and identify the effect sleep disorders have on traffic accidents?

ANSWER: A review of available data indicate that there is not a significant problem caused by sleep disorders.

SENATOR ANDREWS: Has the Department been able to assemble any data in this area? If so, has any analysis been done on the data? If so, what were the agency's conclusions?

ANSWER: Analyses of crash data contained in the agency's Crash Avoidance Research Datafile (CARDfile) and of other available documentation reveal that:

- o Sleep related crashes contribute to 2 to 3% of total crashes, and up to 10% of heavy vehicle crashes occurring annually. However, this includes drivers falling asleep from fatigue, drinking too much, etc.
- o Narcolepsy is a sleep disorder that affects as few as .05 of 1% of the nation's licensed drivers...untreated persons are a small portion of this group.
- o Sleep apnea refers to interrupted sleep...a condition which results in people not being able to sleep through the night, but they function fine otherwise. A direct relationship between sleep apnea and falling asleep behind the wheel has never been determined.

SENATOR ANDREWS: What other data or documents did the agency review in this area? Does the assembled data suggest further action by the agency?

ANSWER: The agency conducted a significant review of available documents on the subject of sleep disorders. A review of the data indicated that there is no significant problem related specifically to sleep disorders. Therefore the agency has no plans for programs dealing with problems caused by sleep disorders. The agency is working on other programs dealing with driver fatigue and inattention caused by other factors such as alcohol abuse.

ADVISORY COMMITTEES

SENATOR ANDREWS: How many advisory committees come under NHTSA jurisdiction? In what areas do they advise NHTSA? How much will be expended in Fiscal Year 1986 on advisory committees?

ANSWER: NHTSA currently sponsors two Advisory Committees: the National Highway Safety Advisory Committee and the National Driver Register Advisory Committee.

The National Driver Register Advisory Committee (NDRAC) advises, consults with and makes recommendations to the Secretary of Transportation on matters relating to the activities and functions of the National Driver Register (NDR). The Advisory

Committee specifically reviews the maintenance, operation, and responsiveness of the NDR to ensure that timely and appropriate assistance is being provided to States in exchanging information on motor vehicle driving records. The Advisory Committee explores and suggests ways to encourage all states to fully utilize and participate in the NDR. The FY 1986 estimated costs for the NDRAC are $20,000 for members travel.

The National Highway Safety Advisory Committee was created by the Congress in 1966 to advise on a continuing basis the Secretary of Transportation on highway safety programs carried out by the Department of Transportation. The Committee's structure and balanced membership ensure that issues, concepts, policies, and program direction related to highway safety are publicly examined and discussed. By law, the Committee is specifically directed to review proposed highway safety (section 402) standards and make recommendations prior to issuance and also to recommend research projects or programs that show promise of making valuable contributions to highway safety. The FY 1986 estimated costs for the NHSAC are $29,600: $19,600 for members travel and $10,000 for members compensation.

SENATOR ANDREWS: What advisory committees are planned for Fiscal Year 1987 and what will they cost?

ANSWER: The two current Advisory Committees, (the National Highway Safety Advisory Committee and the National Driver Register Advisory Committee), are planned for continuation in 1987.

NHSAC FY 1987 ESTIMATED COSTS	
Members Travel	$19,600
Members Compensation	-0 *
Total	$19,600*

NDRAC FY 1987 ESTIMATED COSTS	
Members Travel	$20,000
Total	$20,000

*We have initiated proposed legislation to reduce the number of members from 35 to 25 and eliminate the current $100 a day compensation. This is expected to significantly reduce the travel costs and totally eliminate the compensation costs which are approximately $10,000 per year.

SENATOR ANDREWS: Please provide a summary description on each advisory committee including the number of meetings, list of members, amount spent, and products produced. Please provide such summaries for fiscal year 1985, estimated for fiscal year 1986, and planned for fiscal year 1987.

ANSWER:

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

For Fiscal Year 1985: The NHSAC and/or its subcommittees met four times in FY 1985. The following recommendations were forwarded to the Secretary of Transportation for her consideration.

- As a result of a year long review, the Committee adopted and forwarded to the Secretary a report with recommendations on Commercial Vehicle Safety Issues. The recommendations included new approaches in a number of critical areas:
  - Truck driver training and licensing must be more tailored to the operating requirements of commercial trucks in use;
  - The National Driver Register must come on line as

quickly as possible so that States and trucking companies can use this system to remove unsafe drivers;

- Government must develop accident data for specific types of trucks if program efforts are to become more effective in reducing accidents; and
- All States should be encouraged to adopt the critical items inspection practice of the Commercial Vehicle Safety Alliance.

In response to the report, the Secretary has asked her Safety Review Task Force to review and analyze the recommendations and to identify and suggest ways to implement them.

- o The Committee was asked to review the status of the U.S. emergency medical services and trauma care provided to victims of traffic accidents and other life threatening situations. This effort is now underway. The EMS Subcommittee has begun initial work through assessments of trauma systems in Baltimore, MD, Washington, DC, and Pittsburgh, PA. The Subcommittee is scheduled to review a trauma system in late April. The Committee's report to the Secretary will be issued in June 1986.
- o As a result of the Secretary's decision on automatic protection (208), much visibility has been focused on safety belt usage. The Committee was charged with the task of identifying new ways to assist the agency in the safety belt area, and a new subcommittee was formed. Individual members have suggested new ways to improve corporate participation, and one member has established an employee belt program for his company. Several of the members have individually been very supportive of their States' efforts to enact mandatory safety belt use laws. One member became the Director of the Minnesota Safety Belt Coalition, and has worked many hours to educate the public on the benefits of a mandatory safety belt use law. The budget for NHSAC for FY 1985 was $25,660 ($17,460 for members travel and $8,200 for members compensation.

For Fiscal Year 1986: The EMS Subcommittee plans to continue their review of EMS with a visit to a trauma care facility. A full Committee meeting is planned for June, where review activities for FY 1987 will be discussed and planned. Even though the Committee as a whole has not been as active as in the past, individual members of the Committee have continued to be very active and supportive of NHTSA programs in their own States and local communities. For example, several members are very involved in their respective States to encourage belt use. Other members are involved in their own companies instituting employee safety belt use programs, and others are members of their State Safety Belt Coalition. Estimated costs for FY 1986 are $29,600: $19,600 for members travel and $10,000 for members compensation.

For Fiscal Year 1987: At this time activities for 1987 have not been planned. Much of the planning will depend upon the proposed legislation to reduce the membership on the Advisory Committee from 35 to 25 members. The planning of the subcommittees and reviews for 1987 will be discussed at the June 1986 annual meeting. The reviews will be developed around what the Department would like the Committee to study. Estimated costs for FY 1987 are

$19,600 for members travel. As stated earlier, under the proposed legislation, compensation for members would be eliminated.

NATIONAL DRIVER REGISTER ADVISORY COMMITTEE

For Fiscal Year 1985: In FY 1985 the NDR Advisory Committee met three times and reviewed several issues for which recommendations were sent to the Secretary for her consideration. Two major issues reviewed which have provided significant impetus for program improvements were: an Implementation Schedule for the Problem Driver Pointer System (PPDS) amd the Rapid Response System (RRS).

Implementation Schedule for PDPS: After reviewing proposed revisions to the legislative schedule as presented by NDR program staff, the Committee concluded that the statutory schedule could not be met and supported the proposed changes. The rationale for the revised schedule was that additional time was needed at both the state and Federal levels for sound implementation of the system. This conclusion was the result of an intense study which included input from six major state driver license authorities, technical consultants to the NDR and DOT staff.

Rapid Response System: Becauses of the extension of time required for the PDPS and the desire to be rresponsive to state needs for faster service, a proposal was developed to implement RRS as an interim upgrade of the NDr. The RRS offered the further advantage of expediting eventual state conversions to PDPS since it puts in place the state-to-NDR computer linkages necessary for PDPS. The Committee endorsed this proposal and urged that all options be considered for getting the RRS on line at the earliest possible date, including the use of a commercial computer timesharing facility if necessary. That endorsement led to the subsequent transfer of the NDR computer operation to a private vendor and the development and approval of a plan to establish the RRS capabilityby the summer of 1986. That effort is now in progress and on schedule. The RRS will be operationalaly tested in the State of Delaware during June of 1986 following a brief test period and, if successful, will be offered to other interested states.

The Costs for NDRAC for Fiscal Year were $14,814 for members travel.

For Fiscal Year 1986: The NDR Advisory Committee will continue to advise the Secretary on the maintenance, operation and responsiveness of the NDR to ensure that timely and appropriate assistance is being provided to states in exchanging information on motor vehicle driving records. The Committee is planning to hold its first FY 1986 meeting in May. Even though the Committee has not met this year, the members are being kept abreast of the progress of the NDR through mailings and discussions with NDR and Committee staff. To facilitate the Committee's review of the NDR, the Committee has organized into two subcommittees: 1) Program/Technical Issues and 2) Driver Related Issues. During this year, the subcommittees will review issues which impact the NDR, including multiple licenses, the relationship of the Driver License Compact to the NDR, the use of the RRS, and the concept of a national commercial vehicle operator's lecense. The Advisory Committee also plans to meet with representatives of the four PDPS pilot states to discuss PDPS issues of possible interest to the Advisory Committee. Estimated costs for FY 1986 are $20,000 for members travel.

For Fiscal Year 1987: The NDR Advisory Committee has not planned its FY 1987 activities as yet. Most of the activities are centered around the actual progress of the NDR in which the Advisory Committee monitors and offers comments and suggestions for improvement along the way. After hearing the progress and upcoming events of the NDR from the NDR staff at the Committee's May meeting, the Committee members will be able to set their review goals for FY 1987. The budget costs for FY 1987 are expected to remain the same amount as FY 1986, $20,000 for members travel.

A list of committee members follows.

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SENATOR ANDREWS: What accounts within NHTSA fund the Advisory Committees? Please list amount by activity area (i.e. operations and research and research and development), for the past two fiscal years and planned for FY 1987.

ANSWER:

	FY 1985	FY 1986 (est)	FY 1987 (est)
NHSAC Members Travel O&R - Office of Administrator	$17,460	$19,600	$19,600
NHSAC Compensation O&R - Office of Administrator	$ 8,200	$10,000	-0-
NDRAC Members Travel O&R - Highway Safety Programs	$14,800	$20,000	$20,000

REIMBURSABLE OBLIGATIONS

SENATOR ANDREWS: List the activities and programs that make up reimbursable obligations in fiscal years 1985, 1986, and 1987, and the dollar amounts associated with each.

ANSWER: The breakdown of reimbursable activity shown under the Operations and Research Appropriation follows:

		(000's)	
Function	1985 Obligation	1986 Appropriation	1987 Request
Highway Safety Research and Development (Section 403)	$24,044	$35,394	$29,040
Grant Administration (Section 402)	4,900	5,000	4,900
Services to other Federal agencies	957	900	900
Sale of vehicles and vehicle equipment	679	900	900
Total	$30,580	$42,194	$35,740

The first two entries represent funding sources that are separately identified in the budget for other NHTSA accounts: "Trust Fund Share of Operations and Research" in the case of the Section 403 Program; and "Highway Traffic Safety Grants" in the case of the Section 402 Program. These entities are included under the Reimbursable section of the Program and Financing schedule for the Operations and Research Appropriation (O&R) since expenditures for these programs are disbursed from that Appropriation.

The other entries, Services to Other Agencies, and Sale of Vehicles and Vehicle Equipment, represent sources of funding that are additive to amounts provided by appropriation. In the case of the former, most of the funding is derived from FHWA for statistical work done at their request by NHTSA's National Center for Statistics and Analysis. Funding derived from the sale of vehicles and vehicle equipment is associated with the compliance and crash testing programs where proceeds from the resale of test vehicles and equipment are credited to the O&R Appropriation.

SENATOR ANDREWS: Why do reimbursable obligations rise substantially in FY 1986 over FY 1985 and then drop off from FY 1986 levels to FY 1987? Please elaborate.

ANSWER: The increase in funding (1986 over 1985) results principally from the fact that additional funds were provided by Congress, over the 1986 administration budget request, to cover a trauma research program to be managed by the Centers for Disease Control. The main reason for the drop in funding (1987 below 1986) is that no additional funds have been requested in 1987 for this program.

SENATOR ANDREWS: How controllable are these reimbursable obligations?

ANSWER: Funding for the Section 403 and 402 Programs is, of course, dependent upon Congressional action on the appropriation requests for these entities.

For the other programs, the level of funding, which represents a very small portion of total reimbursable activity, has remained relatively constant over the past several years. Through the apportionment process, OMB establishes limitations on funding levels for these programs.

SENATOR ANDREWS: What factors/indicators go into the estimates?

ANSWER: Estimates for the Section 403 Program are formulated on the basis of agency program plans for activities that fall under this authorization. Highway Safety Research in the areas of Occupant Protection and Alcohol Countermeasures, and demonstration endeavors under the National Occupant Protection Program are examples of program elements.

Estimates for Section 402 Grant Administration are based on an assessment of the amount of staff involvement required throughout the Agency to provide guidance to the States on the intended use and objectives of Formula grant allocations.

Estimates for other programs are formulated on the basis of historical spending trends.

SENATOR ANDREWS: How accurate have estimates of reimbursable obligations been in the past three years? Provide estimates with actuals for the past three years for which actuals are available.

ANSWER: Following is a comparison of estimates and actual obligations for reimbursable programs, FY 1983-1985.

	FY 1983		FY 1984		FY 1985	
	Budget Estimate	Actual	Budget Estimate	Actual	Budget Estimate	Actual
Hwy. Safety Research & Dev. (Sec. 403)	$23,315	$22,635	$22,214	$21,589	$27,460	$24,043
Grant Admin. (Sec. 402)	3,850	4,897	3,990	4,990	4,900	4,900
Services to other Fed. agencies.	800	561	900	865	900	957
Sale of vehicles & vehicle equipment	800	706	900	393	900	679
Total	$28,765	$28,799	$28,004	$27,837	$34,160	$30,579

The only significant difference in this table is in Section 403 funds where the amount appropriated by Congress (Actual) in FY 1985 was less than the Administration's request (Budget Estimate).

STANDARD LEVEL USER CHARGES

SENATOR ANDREWS: Standard Level User Charges increase by almost 50 percent, from Fiscal Year 1986 to Fiscal Year 1987. Why?

ANSWER: The increased costs are entirely attributable to General Services Administration assessed space and rental costs, and are not an increase in rental space. Under amendments to the Public Buildings Act, Title 40 of the United States Code, Section 490 (j), the Administrator of General Services Administration is directed to charge Federal agencies furnished space and service rental rates which approximate commercial rates for comparable space and services. These amendments have substantially increased NHTSA's rental costs. For example, at the Headquarters (Washington, DC) per square foot charges increased from $15.03 in FY 1986 to $22.95 in FY 1987. There have also been some increases and decreases in our Regional Offices. For example, the square foot rate in Region II (White Plains, NY) has increased from $14.52 in FY 1986 to $19.89 in FY 1987 and the square foot rate in Region VI (Fort Worth, TX) has increased from $9.71 in FY 1986 to $12.41 in FY 1987. In Region IX (San Francisco, CA) the square foot rate decreased from $23.93 in FY 1986 to $20.34 in FY 1987 and is attributable to the relocation of that office to a lower rent area.

SENATOR ANDREWS: Provide for the record a detailed table on Standard Level User Charges comparing the Fiscal Years 1985, 1986, and 1987. Major components, listing Washington and Regional Offices.

ANSWER: The detailed table is as follows:

STANDARD LEVEL USER CHARGE COMPARISON
FY 1985 - FY 1986 - FY 1987

TYPE OF SPACE	FY 1985		FY 1986		FY 1987	
	RATE PER SQ. FOOT	COST	RATE PER SQ. FOOT	COST	RATE PER SQ. FOOT	COST
HEADQUARTERS:						
Office	$15.03	$1,783,264	$15.03	$1,783,264	$22.95	$2,722,949
General Storage	10.60	17,935	10.60	17,935	16.07	27,190
Laboratory & Clinic	26.10	5,063	26.10	5,063	41.08	7,970
Food Service Area	24.47	2,202	24.47	2,202	37.64	3,388
Structurally Changed	20.93	837	20.93	837	41.31	1,652
ADP Area	18.72	18,420	18.72	18,420	36.26	35,680
Conference & Training	16.94	10,791	16.94	10,791	27.31	17,396
Light Industrial	11.33	657	11.33	657	19.51	1,132
Parking	N/A	156,876	N/A	165,774	N/A	301,324
Hqtrs. Total		$1,996,045		$2,004,943		$3,118,681
REGION I: 1/						
REGION II:						
Office	$14.52	$ 35,182	$14.52	$ 35,182	$19.89	$ 48,193
Parking (Outside)	1.80	2,700	1.80	2,700	1.53	2,295
Total		$ 37,882		$ 37,882		$ 50,488
REGION III:						
Office	$14.25	$ 45,899	$14.25	$ 45,899	$14.03	$ 45,191

1/ Department of Transportation owned building.

STANDARD LEVEL USER CHARGE COMPARISON
FY 1985 - FY 1986 - FY 1987

TYPE OF SPACE	FY 1985 RATE PER SQ. FOOT	FY 1985 COST	FY 1986 RATE PER SQ. FOOT	FY 1986 COST	FY 1987 RATE PER SQ. FOOT	FY 1987 COST
REGION IV:						
Office	$ 9.71	$ 33,053	$ 9.71	$ 33,053	$11.02	$ 37,512
Laboratory & Clinic	16.80	252	16.80	252	19.72	296
Total		$ 33,305		$ 33,305		$ 37,808
REGION V:						
Office	$ 9.71	$ 28,501	$ 9.36	$ 28,501	$ 9.27	$ 28,227
REGION VI:						
Office	$ 9.71	$ 18,449	$ 9.71	$ 18,449	$12.41	$ 23,591
General Storage	6.87	7	6.87	7	8.69	9
Laboratory & Clinic	16.80	50	16.80	50	22.21	67
Food Service Area	15.76	457	15.76	457	20.35	590
Conference & Training	10.94	175	10.94	175	14.77	369
Light Industrial	7.35	2,536	7.35	2,536	10.55	3,640
Parking (Inside)	1.24	501	1.24	501	1.95	788
Parking (Outside)	1.43	5,334	1.43	5,334	1.91	7,124
Total		$ 27,509		$ 27,509		$ 36,178
REGION VII:						
Office	$ 8.59	$ 23,872	$ 8.59	$ 23,872	$ 8.52	$ 23,677

STANDARD LEVEL USER CHARGE COMPARISON
FY 1985 - FY 1986 - FY 1987

TYPE OF SPACE	FY 1985		FY 1986		FY 1987	
	RATE PER SQ. FOOT	COST	RATE PER SQ. FOOT	COST	RATE PER SQ. FOOT	COST
REGION VIII:						
Office	$10.30	$ 28,325	$10.30	$ 28,325	$ 8.29	$ 22,798
REGION IX:						
Office	$23.93	$ 55,254	$23.93	$ 55,254	$20.34	$ 46,965
Laboratory & Clinic	41.88	419	41.88	419	36.41	364
Food Service Area	39.25	746	39.25	746	33.36	634
Parking (Inside)	2.83	25	2.83	25	5.35	48
Total		$ 56,444		$ 56,444		$ 48,011
REGION X:						
Office	$17.68	$ 43,387	$17.68	$ 43,387	$18.15	$ 44,540
General Storage	12.46	75	12.46	75	12.70	76
Laboratory & Clinic	30.75	123	30.75	123	32.48	130
Food Service Area	28.83	2,768	28.83	2,768	29.67	2,857
Structurally Changed	24.65	863	24.65	863	32.67	1,143
Conference & Training	19.95	758	19.95	768	21.60	821
Light Industrial	13.33	3,999	13.33	3,999	15.43	46
Warehouse Storage	3.75	1,125	3.75	1,125	3.75	1,125
Total		$ 53,098		$ 53,098		$ 50,738
Headquarters Total		$1,996,045		$2,004,943		$3,118,681
Regional Total		334,835		334,835		343,116
Grand Totals		$2,330,880		$2,339,778		$3,461,797

QUESTIONS SUBMITTED BY SENATOR D'AMATO

SPLASH AND SPRAY

SENATOR D'AMATO: The Surface Transportation Assistance Act, Section 414, requires the Secretary of Transportation to issue minimum standards regarding the use of splash and spray suppressant devices on tractor trailers. What is the current status of that standard?

ANSWER: The National Highway Traffic Safety Administration (NHTSA) is currently reviewing comments to the Notice of Proposed Rulemaking (NPRM) published in April 1985. The extended comment period for this NPRM closed on August 12, 1985. However, the agency received numerous comments after that date and is giving special attention to several of these late-filed comments, particularly one from the Motor Vehicle Manufacturers Association (MVMA) which contained new field test data. Since these data were filed late last fall and contained original data that needed to be thoroughly reviewed to assess its impact on the splash and spray suppression rulemaking, the agency determined that additional time was necessary to thoroughly review this late data.

Our review of the docket comments revealed that many commenters were concerned about the adequacy (i.e., repeatability and reproducibility) of the required tunnel test. Also our early assessment of the MVMA data showed that the estimated effectiveness of the devices tested by MVMA was not consistent with estimates of effectiveness from other tests. For these reasons, the Department decided that additional short-term research was necessary to answer several remaining questions and to be responsive to docket comments.

The agency has initiated supplemental research projects and expects them to be completed this fall. They will respond to agency and commenter concern that the agency's tunnel test may not be repeatable or reproducible, will survey the aeroaid market, and will provide additional data on winter exposure of splash and spray devices.

The agency has also reopened the docket for a period of 60 days, until April 14, 1986, with an invitation for other concerned parties to review the late-filed data, analyze it and provide additional comments. After the agency finishes analysis of these late-filed data, reviews additional comments to the reopened docket, and completes and analyses the short term research, we will be in a position to make a final determination.

SENATOR D'AMATO: In 1984, Congress passed legislation to encourage the States to raise their drinking ages in order to help reduce the number of injuries and fatalities attributed to drunk driving. At that time, I wrote to Secretary Dole and expressed my concern that we also should address the problem of drugged driving. What has NHTSA done to address the problem of drugged driving? Do your plans for FY 87 include any work on this issue? If yes, what are these plans? If no, please explain the reasons?

ANSWER: The problem of drugged driving has been the focus of research in the following two areas:

(1) Definition of the extent to which specific drugs (and associated dosage levels) are likely to present a highway safety hazard.

In this area, we have recently completed a review of the drug incidence (in crashes) studies that have been carried out by

States and localities during the last few years. Results from this review indicate that marihuana, valium, barbiturates, stimulants (e.g., cocaine) and antihistamines are the most frequently occurring drugs found in fatal and seriously injured drivers. The incidence percentages for these drugs range from 2% to 15%. The results also indicate that most of the crash involved drivers who use drugs are also under the influence of alcohol, often with relatively high Blood Alcohol Concentrations (i.e., over .10%).

(2) Assessment of the existing techniques being used by police to identify drug-impaired drivers and, if required and feasible, development of more effective procedures.

In this area, we have completed a laboratory evaluation of a set of drugged driver detection pro- cedures developed by the Los Angeles Police Department (LAPD). The results from this study indicate that the LAPD procedures are (1) effective in determining whether an impairing drug is present, and (2) in cases where a drug is present, very effective in specifying the type of drug. A field evaluation in Los Angeles to determine the effectiveness of these procedures in actual use is currently underway, and the results should be available in a few months.

In FY 1986, assuming results of the field test are positive, we will also be participating in a joint program with the California Office of Traffic Safety, the LAPD, and the City of Los Angeles to expand the existing LAPD drugged driver detection procedures and develop a formal drug recognition training program for use by police departments nationally.

As regards FY 1987, we plan to continue work on drugged driving issues. The exact nature of this work will depend on the results of a review currently underway to determine the feasibility of different research approaches.

QUESTIONS SUBMITTED BY SENATOR CHILES

FUEL ECONOMY STANDARDS FOR AUTOMOBILES IN THE U.S. MARKET

SENATOR CHILES: Would you please explain for us the factors which led NHTSA last year to roll back the standard to 26 miles per gallon?

ANSWER: On September 30, 1985, NHTSA issued a final rule changing the fuel economy standard for model year 1986 passenger automobiles from its previous level of 27.5 mpg to 26 mpg. The agency's decision was made in accordance with the statutory criteria for determining fuel economy standards, following a public rulemaking proceeding. In making that decision, NHTSA carefully considered all available information, including public comments submitted in response to March and July 1985 Federal Register notices on the subject and a public hearing held in August 1985. Based on its analysis, NHTSA determined that the previous standard of 27.5 mpg did not meet the statutory test of "economic practicability" for model year 1986, since two of the large domestic automobile manufacturers could achieve that level only through severe product restrictions. For model year 1986, the agency concluded that those actions could have resulted in serious adverse economic impacts, including hundreds of thousands of lost vehicle sales and tens of thousands of lost jobs, as well as restrictions on consumer choice. NHTSA also found that those manufacturers had made substantial good-faith efforts toward achieving the 27.5 mpg standard, but their efforts had been overtaken by factors beyond their control, such as declining fuel prices which have led to increased consumer demand for larger cars and more powerful engines.

SENATOR CHILES: Do you feel the conditions which influenced last year's decision are substantially different now?

ANSWER: Many of the factors which influenced last year's decision, such as falling fuel prices and increased import competition in the small car market, are also relevant to our current decisionmaking process. For example, the trend of declining fuel prices is even more pronounced than the agency anticipated last year. With recent reports that oil prices futures have dipped below $12 per barrel, it is more difficult for full line manufacturers to sell a mix of vehicles and engines that would enable them to achieve a 27.5 mpg CAFE level.

SENATOR CHILES: The budget justification material (page 41) noted that passenger automobile total fleet fuel economy for 1985 was projected to be 27.2 miles per gallon. If the overall U.S. fleet was 27.2 miles per gallon, why did you need to roll back the fuel economy standard all the way to 26 miles per gallon?

ANSWER: While the total new car fleet is projected to average 27.2 mpg for model year 1985, the average fuel economy for domestic manufacturers is projected to average 26.1 mpg for that year. The import fleet, with its high percentage of small cars, is projected to average 30.7 mpg for 1985, which accounts for the total fleet averaging 27.2 mpg. In determining "maximum feasible average fuel economy level," NHTSA does not simply set standards at the level of the least capable manufacturer but instead takes industry wide considerations into account. The agency has consistently taken the position, however, that it has a responsibility to set standards at a level that can be achieved by manufacturers of a substantial share of sales. As discussed by the preamble to the model year 1986 final rule, it is the agency's conclusion that, given the substantial share (more than 60 percent) of car sales by GM and Ford, a standard set at a level above the maximum feasible capability of those manufacturers would by definition not be at the maximum feasible average fuel economy level for the industry, i.e., such standard would exceed that level. The agency concluded that 26.0 mpg would be at the maximum capability of GM and Ford, the least capable manufacturers with major shares of the market, taking account of marketing and technological risks.

THE GREY MARKET

SENATOR CHILES: As you know, foreign vehicles must be brought into conformance with our motor vehicle safety standards prior to sale in this country and those imported cars modified in this country are referred to as grey market cars. The number of these cars modified in the United States to meet our safety standards has increased substantially from about 14,000 vehicles in 1983 to 67,000 vehicles in 1985. Importers must certify that such vehicles have been brought into compliance by providing documentation both to the U.S. Customs Service and to the National Highway Traffic Safety Administration.

Ms. Steed, in a study done by your agency and submitted to committees in the Congress last June, it was found that 40 percent of the foreign cars inspected were not brought into full physical compliance and that 55% of the cars inspected had not been brought into total compliance prior to sale. If your compliance budget does not increase in fiscal year 1987 over the $3,675,000 level provided last year, what are your plans to assure that these grey market automobiles are brought into compliance with our safety standards? Do you need additional resources to meet this objective?

ANSWER: NHTSA's actions to assure that grey market automobiles are brought into compliance with the safety standards include a review of compliance statements submitted by importers, and the initiation of random inspections of vehicles at modifiers' facilities. The regional staff performing these inspections have all received training covering the inspection techniques necessary to evaluate compliance of grey market cars.

Training has also been provided to other enforcement agencies such as the Department of Transportation's Office of the Inspector General and the New Jersey State Police enabling them to pursue their own independent investigations rather than relying on NHTSA field representatives. Numerous special investigatory reports have also been provided to the Internal Revenue Service, Federal Bureau of Investigation, California Air Resources Board, the Department of Transportation's Office of the Inspector General, and various District Attorneys to assist directly in their processing of violations. In addition, responses are provided on an expedited basis to Customs Service Investigators in the field from our vehicle tracking system to facilitate fast action, on their part, against suspect modifiers and importers.

The resources currently devoted to monitoring the grey market are adequate to maintain the operation at its present level. We have made significant improvements in the operation during the past year, reducing the processing time for compliance statements from approximately 4 months to 4 weeks, and do not require additional resources at this time.

HIGHWAY DEATHS

SENATOR CHILES: As you know, the long-term trend in highway deaths has been going up; however, it has been going down with regard to highway deaths per highway miles traveled. For example, travel by motor vehicle in the 1920's was considerably more dangerous than it is today. The fatality rate in 1925, for example, of 18.2 deaths per 100,000,000 vehicle miles traveled is 7 times greater than the rate of 2.7 per hundred million vehicle miles in 1984. In 1982, we had a dramatic reduction in the actual fatality count, down to 43,990. I noticed, however, that in a National Highway Traffic Safety Administration report entitled TRAFFIC SAFETY TRENDS AND FORECASTS you are projecting highway deaths by 1990 to again reach the 50,000 lives per year mark. Ms. Steed, in your opinion, what are the major changes that you would recommend in safety regulations or state and federal laws that would help us insure that we don't again reach the 50,000 lives per year mark that you project for the year 1990?

ANSWER: Two things stand out as critical elements of a program to reduce the forecasted number of fatalities. The first is a continued emphasis by both the States and the Federal government on anti-drunk driving programs. The second is an increase in belt usage resulting from an increase in the number of

States with belt use laws, as well as education programs that encourage belt usage nationwide. Other important areas include encouraging the use of motorcycle helmets, and programs that are aimed at the young driver in general.

SEAT BELT USAGE RATE

SENATOR CHILES: Ms. Steed, I understand that you estimate that the seat belt usage rate in the United States is approximately 23%. What are your projections for future seat belt usage? Do you believe that the programs of the National Highway Traffic Safety Administration can be successful in increasing the seat belt usage rate? If so, what rate do you project for the year 1990 for example?

ANSWER: Our latest estimate, based on the survey covering the last six months of 1985, is 23.3 percent for safety belt use and 56.2 percent for child safety seat use.

Predicting safety belt use for any period in the future depends on the accurate assessment of several important variables, including the number of states that will enact mandatory safety belt use laws, when those laws will be effective, how well they will be enforced, and the effectiveness of the education program accompanying the law. If the trends of the past year continue, we believe that use rates from the 19-cities data to be collected in the last six months of this year (and released next January) will continue to increase.

At this point, it is not possible to predict use rates for the end of fiscal year 1987 or beyond. We see no reason to believe, however, that the current trends of increasing belt usage will not continue.

We believe that the programs of the National Highway Traffic Safety Administration are an important part of a national movement to increase safety belt use through voluntary means and through mandatory safety belt use laws. It is only when increasing safety belt use is perceived as important at the state and community level that the necessary support develops to increase use voluntarily and to pass mandatory use laws, which have been shown to be the fastest, most effective way to increase belt usage. Developing that support requires many players, including state and community government officials, private business, the law enforcement community, educators, the medical community, and many others.

FRONT BRAKES ON TRUCKS

SENATOR CHILES: I understand that we have a little conflict in the Department of Transportation over front axle brakes on trucks. The Federal Highway Administration has had a rule which originated in 1952 not requiring front axle brakes on trucks. However, the National Highway Traffic Safety Administration has required since 1980 that all manufacturers install front axle brakes on all new rigs. I understand that removal of front axle brakes increase stopping distances from 24 to 66% for trucks. Ms. Steed, what is being done to resolve the apparent conflict between the Federal Highway Administration and your agency over the use of front axle brakes on truks?

ANSWER: The National Highway Traffic Safety Administration (NHTSA) issued a requirement for brakes on all axles of newly manufactured medium/heavy trucks in 1980 based on its experience with Federal Motor Vehicle Safety Standard 121 and data available in the 1970's. Since 1979, the agency has acquired additional data quantifying the performance degradation which results from the removal of front axle brakes from three axle single-unit trucks and truck-tractors. Our tests are conducted with limited or no wheel lock-up. If wheels lock, steering control and vehicle stability is lost. Under these test conditions, lack of front wheel brakes can increase stopping distances 2-31 percent, depending on the vehicles's condition of loading. In locked wheel stops, where vehicle control is lost, stopping distances can be even longer, possibly as much as you indicate. Lack of front wheel brakes increases the likelihood of drive axle or trailer axle lockup in moderate stops with attendant increase in spin-out of jackknife likelihood. NHTSA has provided these data to the Bureau of Motor Carrier Safety (BMCS) and to the National Motor Carrier Advisory Committee. It is our understanding that the BMCS will propose deleting its present rule which permits the removal of front brakes on three axle trucks thereby requiring operable brakes on all axles of all trucks as a part of their proposed revision of Part 393 as required by the Motor Carrier Safety Act of 1984.

PASSIVE RESTRAINTS - THE AIR BAG ISSUE

SENATOR CHILES: In July of 1984, Secretary Dole announced that the Department of Transportation would not require automatic protection for cars if before April 1, 1989, states representing 2/3 of the U.S. population had enacted mandatory seat belt laws. As of now, 19 states, representing 50% of the U.S. population have enacted mandatory seat belt laws, and according to the Highway Users Federation, another 28 states are expected to consider mandatory seat belt laws this year. A number of the laws passed, however, do not meet the original six Federal standards that must be met if the Federal government is to drop its requirement. Ms. Steed, you were quoted in the New York Times on Sunday, January 19, indicating that "not all of the 6 standards are present in every law." When is the Department of Transportation going to rule on the adequacy of the state laws already adopted?

ANSWER: The Department does not plan to comment specifically on each state law while the litigation challenging the Department's authority to link state safety belt use laws and the passive restraint requirement is pending before the U.S. Court of Appeals. Since we do not know how long this matter will be pending before the court, we cannot estimate the date we intend to provide states with informal advice about their laws.

STATE FARM SUIT ON THE AIR BAG RULE

SENATOR CHILES: I understand that the State Farm Mutual Automobile Company has filed a suit challenging the legality of Secretary Dole's offer to drop the passive restraint requirement even if enough states do adopt seatbelt laws meeting all 6 criteria. What is the status of that law and when do you expect it to be settled?

ANSWER: The litigation concerning the validity of the Secretary's July 11, 1984 decision requiring phased-in installation of passive restraints in new passenger cars manufactured on or after September 1, 1989 unless states containing two-thirds of the Nation's population pass qualifiying mandatory safety belt use laws is still pending. Oral argument was held last March, but one of the judges on the original panel died before the case was decided. The case was reargued on March 11, 1986, pursuant to a January 24, 1986 order from the Court that also requested all parties to file supplemental briefs addressing "the developments in the States" by February 28. Separate supplemental briefs were filed by petitioners State Farm et al., and New York State, as well as by the Department.

We cannot predict when the case will be decided.

BUDGET INCREASE FOR PASSIVE RESTRAINT PROGRAM

SENATOR CHILES: Ms. Steed, I notice in your budget justification (page 68) that you are requesting something slightly more than a $3,000,000 increase for your national occupant protection program. Could you explain for the Committee how you intend to use the additional $3,000,000 of increases requested for this program.

ANSWER: States that have passed mandatory use laws need assistance in effectively implementing their laws and evaluating the results. The MUL States will receive support in the form of assistance in developing and producing public information materials, developing and implementing effective enforcement procedures including training, and the stimulation of comprehensive community-based programs.

Media exposure and promotional activities are important tools to reinforce the positive image of occupant protection. The public must be frequently and effectively reminded to use safety belts and be exposed to information on automatic crash protection technologies.

Providing mini-grants to State and local chapters of national organizations such as the American Red Cross, American Public Health Association and National Extension Homemakers Council has proven to be a successful promotional approach. These incentive grants, ranging from $500 to $3,000 each, have community involvement components as well as face-to-face education. It is estimated that 475,000 people were reached with face-to-face education programs through the first 16 National Extension Homemakers Council's mini-grants in only eight months. We plan to take even greater advantage of the existing capabilities of these State and local chapters to effectively and efficiently reach out into communities to conduct educational programs involving their own members and constituencies as well as to combine their resources with those of other community organizations for broader impact in the community.

The business community is potentially one of the most effective intermediaries to influence use of safety belts and child safety seats because they can set policies for employees and have the resources to support continuing programs. The increased funding requested for this area would permit an expansion of the existing program which basically involves selling top management on the benefits of an employee program, developing and distributing guidance and promotional materials, supporting workshops, and reaching employers and employees at conventions and through labor organizations, national trade associations and professional societies. This will result in an estimated additional 4,000 companies developing and implementing, or improving, safety belt programs for employees, and there will be participation from national labor organizations and national professional societies. Also, 2,000 motor vehicle fleet administrators will have a greater awareness of automatic crash protection issues through the workshop activities.

21 YEAR OLD DRINKING LAW

SENATOR CHILES: Ms. Steed, what is the position of the National Highway Traffic Safety Administration with regard to making these losses in Federal-aid highway money permanent if the States do not have 21 drinking age laws on the book before October 1, 1986?

ANSWER: We believe it is necessary to make permanent the penalty provisions to preclude States from sunsetting their laws when Federal withholding of highway funds ends. We are convinced that it will help persuade State legislators to act in the national interest to save our children's lives by raising the drinking age to 21 across the country. Without permanent penalty provisions, the nation could return to the patchwork quilt whereby neighboring States have different drinking age law. The "blood border" problem that exists when our youth drive from one State with 21 as the drinking age into another State with a lower age must be eliminated. The proposed change should accelerate this action.

The national concern over drunk driving and, in particular, the disproportionate number of young people killed or injured in alcohol-related highway crashes is of major concern to this Administration and is reflected in the overwhelming support the legislation received in both Houses of Congress. The Administration, in general, opposes the imposition of sanctions to accelerate State action. However, after careful consideration and deliberation, it was determined that in this case the use of Federal authority was fully justified. Raising the drinking age is a proven success. With the problem so clear-cut and a proven solution at hand, we believe it appropriate to withhold highway funds. Persons 18-20 are more than twice as likely as the average driver to be in an alcohol-related crash. When the drinking age is raised, nighttime fatal crashes for young people affected by the new law decline an average of 13%. In 1984, State minimum drinking age laws of 19, 20, or 21 saved an estimated 700 lives in traffic crashes compared to a minimum drinking age of 18. If all States with a minimum drinking age less than 21 had raised the minimum to 21, an additional 400 lives could have been saved, according to the National Center for Statistics and Analysis.

THE ALCOHOL INCENTIVE GRANTS

SENATOR CHILES: Are you considering changes in the requirements in order that more States may qualify for these grant programs? For the record, please provide the amounts authorized and obligated each year for the Alcohol Incentive Grant Program.

ANSWER: By Fiscal Year 1987, we anticipate that 30 States in all will have qualified. Accordingly, and in view of the fact that Section 402 funding continues to be available to the states for alcohol programs, we are not contemplating changes in the criteria at this time.

The amounts authorized and obligated each year for the Alcohol Incentive Grant Program are:

(Millions)	
1983 Authorization (available FY 1983-1986)	$ 25.0
1984 Authorization (available FY 1984-1987)	50.0
1985 Authorization (available FY 1985-1988)	50.0
Sub Total Authorizations	$125.0
1984 Obligations	$ 5.2
1985 Obligations	6.3
1986 Obligation Limitations	27.6[1]
1987 Obligation Limitations	17.9
Subtotal Obligations	$ 57.0

[1] Original limitation of $28.8 million reduced to $27.6 pursuant to Gramm/Rudman, Hollings Amendments

NATIONAL DRIVER REGISTER PROGRAM

SENATOR CHILES: Ms. Steed, I was pleased to see the status report provided in your statement on the National Driver Register Program. I noted that in April you expect to select 4 States to take part in a pilot test of this program. As you know, my State, with its continuing large influx of people from the other 49 States has a great need for a program such as this as it will permit a computerized check regarding past driving records. The requirement for this program was established in 1982 and this April we are going to select 4 States to take part in the pilot program which will not be operational until mid-1987. Ms. Steed, I'm a little concerned that the implementation of this program has been so slow. What steps can you take to speed the initiation of this program and why has it taken over 5 years to get to the point of an operational test?

ANSWER: The agency has already taken several steps to speed up service to the States.

o Next-day service is now being offered as an alternative to the two-week mail service. Eleven States are now using this method, and eleven others are expected to be using it by mid-1986.

o An on-line electronic connection to the NDR computer is now being developed that will respond as fast as the planned pointer system, except that the information will come from the existing file. This "rapid response" technology will be operationally tested in one State by June 1986, and will be offered to interested States soon thereafter. This will also expedite the future rate of conversion of States to the new pointer system in that it will establish the computer linkup connections required for the new system.

The statutory schedule did not take into account two major activities which require a great deal of time: procurement of contractor assistance to design the new system (about nine months) and implementation of the system at both the State and Federal level (about 16 months). In addition, working with the NDR Advisory Committee, we have made every effort to accelerate the schedule.

55 MILE PER HOUR SPEED LIMIT

SENATOR CHILES: Studies show that the 55 mph speed limit saves 3,000 lives each year and $2 billion of fuel but adds 1 billion hours of driving time and has an enforcement cost of approximately $120 million a year.

As oil and gas prices continue to drop and as the administration's commitment to energy conservation has reduced at least as witnessed by the roll back last year of the automobile fuel standards, has the administration changed its position on the 55 mph speed limit?

I understand that there is a review under way in the Office of the Secretary on this issue. When do you expect that review to be completed?

ANSWER: The DOT is reviewing the findings and recommendations of the NAS study. The first priority has been given to the need for an improved speed compliance measurement process to improve safety by encouraging State Patrols to focus speed enforcement at high risk crash locations. The NAS recommendation to adopt a point system in which high-speed violations are weighted more heavily than incremental violations has been considered with various configurations. The requirement for a system that treats all States equitably, yet still provides for public safety, has made analysis of various proposals a complex task.

We are proceeding with our examination of this and other related NMSL issues and hope to have our review completed in the near future.

I would like to add that the Department's commitment to energy conservation has not been diminished as a result of the drop in the price of fuel. The decision to lower the 1986 passenger car Corporated Average Fuel Economy Standard (CAFE) was based on the careful evaluation of all the criteria that the statute requires the Department to take into consideration in determining maximum feasible fuel economy standards. Among the statutory criteria that had to be considered by the Department, was whether the 1986 fuel economy standard was economically practicable. After weighing significant economic and employment risks against very uncertain potential energy savings, the Department reached the decision to lower the standard.

SEAT BELTS IN SCHOOL BUSES

SENATOR CHILES: Ms. Steed, there has been considerable concern expressed over the fact that seat belts are not required on school buses. Many have expressed the view that even if school bus design is relied on for safety, there is still a great educational gain to be made by having youngsters learn to buckle up when riding.

Last year you indicated that research was underway to examine the relation between student's exposure to belts and their use of belts in private vehicles. Can you tell us the results of this research? What is your current view on the question of the use of seat belts in buses?

ANSWER: Last year, NHTSA collected information through discussions with students, parents, school officials, transportation coordinators, drivers, bus contractors, and other individuals in nine school districts operating large school buses equipped with safety belts. These discussions did not indicate that students' exposure to bus belts was an important influence on students' use of car belts. Parents' belt use rules and attitudes, mandatory State belt use laws, and classroom education programs appeared to have more influence.

The Agency's position on belts on school buses has not changed. Installation of belts on large buses continues to be a matter that local school districts should consider in the broader context of the array of safety improvement investments that can be made. Considerations could include: the replacement of old buses which do not meet the 1977 standards of "compartmentalization"; providing continuing education to students and bus drivers to avoid pedestrian accidents near stopped buses; providing training to bus drivers on crash avoidance and vehicle evacuation techniques; assuring sound bus maintenance programs; and providing additional safety equipment such as bus stop signaling devices and auxillary mirrors.

NONCOMPLIANCE INVESTIGATIONS

SENATOR CHILES: The purpose of NHTSA's noncompliance investigations is to determine if motor vehicles and associated equipment items comply with Federal Motor Vehicle Safety Standards and, if not, to require corrective action such as a recall or civil penalty. Based on information supplied to the subcommittee, noncompliance investigation cases usually take a year or more and a small percentage of these cases actually result in a recall or civil penalty.

Does NHTSA have any timeliness criteria for processing noncompliance investigations and how do you determine if its processing time is reasonable?

What was the average processing time for noncompliance investigations cases closed in fiscal year 1984 and 1985?

What percentage of your investigations result in a recall, civil penalty, or both?

ANSWER: It is not really possible to establish general criteria for timeliness that could be applied to each noncompliance investigation undertaken. The complexity of the case is the primary determinant of processing time. However, more serious cases are always handled on an expedited basis in order to obtain recall and remedy as soon as possible. Once a recall is obtained, the administrative actions involved in formally closing the case may follow the corrective action by a significant period. This is particularly so in those cases involving civil penalties because of the time to process the civil penalty action.

The average processing time for noncompliance cases closed in fiscal year 1984 and 1985 was 20 months and 13 months, respectively. However, this average can be very misleading recognizing the variety of the cases involved and the individual circumstances surrounding each case.

A review of our investigations closed in fiscal year 1984 and 1985 indicates the following:

	PERCENTAGE OF INVESTIGATIONS CLOSED		
FISCAL YEAR	RECALLS	CIVIL PENALTIES	RECALL & CIVIL PENALTY
1984	18.8	4.3	0
1985	29.7	2.9	0

SELECTION OF SAFETY STANDARDS FOR COMPLIANCE TESTING

SENATOR CHILES: NHTSA uses four criteria for selecting Federal Motor Vehicle Safety Standards for compliance testing. Standards are selected for testing because, (1) tests associated with a standard involved a high failure rate in the previous year; (2) a standard is new or relatively new; (3) political interest in a standard; or (4) to maintain surveillance of a standard. Last year NHTSA provided this subcommittee with fiscal year 1984 compliance test failure data by each standard tested. The data showed that 8 of the 23 standards tested have failure rates of zero.

How many safety standards were selected for compliance testing in fiscal year 1985 and how many of these standards had failure rates of zero in the previous year?

Why were these standards selected if there were no test failures associated with these standards the previous year?

ANSWER: A total of 21 safety standards were tested in fiscal year 1985, of which 9 standards had failure rates of zero in the previous year. These standards were selected for testing based upon the following criteria; new standards, amendments to existing standards, high failure rate history, standards of significant interest to consumers, and the need to maintain an enforcement presence through minimum surveillance. We note that the absence of failures in the limited sampling in any particular year's test program is no guarantee that failure would not occur in other diverse samples of vehicles and equipment tested in a subsequent year. All of the standards, including those tested each year, are considered to be critical safety requirements warranting a continuation of the enforcement presence which, in turn, will send a signal to manufacturers to maintain strong quality control programs covering design and manufacture of their products.

ANTI-THEFT LEGISLATION

SENATOR CHILES: Because of the increasing number of auto thefts, the Congress responded with passage of legislation designed to help cope with this problem -- the Motor Vehicle Theft Law Enforcement Act of 1984. Certain deadlines were established for 1985 for your agency to take action to carry out this law. Please tell us where you stand in your actions to implement this law?

ANSWER: The National Highway Traffic Safety Administration (NHTSA) has been delegated authority to promulgate regulations necessary to implement the Motor Vehicle Theft Law Enforcement Act of 1984 (the Act). To implement the Act, NHTSA has identified high-theft carlines as directed by the statute, and developed a theft prevention standard setting out performance criteria for marking the major parts of high-theft passenger automobiles.

Additionally, the agency has developed an interim final rule for the "Black Box" anti-theft device exemption from the parts-marking requirements. In early 1986, the agency intends to issue a proposed rule regarding insurance industry reporting.

Below are highlights of agency actions and plans:

- o Publication of procedures for selection, in cooperation with auto manufacturers, of new carlines to be subject to the theft prevention standard (August 1985).
- o Publication of a theft prevention standard identifying the vehicle parts to be marked, the performance criteria for marking these parts, and the procedures relating to the manufacturer's compliance certification (October 1985).
- o Publication of final theft data for Model Years 1983 and 1984 carlines (November 1985).
- o Publication of an Interim Final Rule setting forth guidelines whereby an automobile manufacturer may petition the agency for an exemption from the parts-marking requirement of the theft prevention standard, for up to two carlines each model year that contain a standard-equipment anti-theft device which the agency has determined is likely to be as effective as parts-marking in deterring and reducing vehicle theft (January 1986).
- o In spring 1986, the agency anticipates the promulgation of a regulation regarding the insurance industry reporting requirements of the Act. This regulation will identify the type of information needed by the agency to meed the requirements of the Act. These data will be used to evaluate the effectiveness of the theft prevention standard in reducing vehicle thefts and hopefully comprehensive insurance premiums.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

SENATOR LAUTENBERG: Senator Danforth and I offered an amendment in fiscal year 1984 to fund a balanced program of occupant protection education. I'm concerned about how balanced that program has been.

Of the funds provided for occupant protection education what percentage has been devoted to passive restraints?

How many full time permanent employees have been devoted to your efforts on behalf of mandatory seat belts and how many to passive restraints?

Could you contrast your efforts on mandatory seat belts with those on passive restraints? What precisely have you done to enhance the usage of seat belts and purchase of passive restraint-equipped cars?

ANSWER: One of the goals of the occupant protection program is to integrate passive protection education into the ongoing program. For example, as educational materials are updated, passive educational material is added. This has been done with a number of materials, including the instructional guide to accompany educational materials reaching a variety of age groups and our employers materials. We have also developed two new brochures dealing with passive protection.

Although the focus is on safety belts in many cases, especially in those states where mandatory safety belt use law have been enacted, educating the public on the need for occupant protection is important to both active and passive protection. This is especially true since drivers and passengers in air bag equipped cars must wear safety belts to receive the most effective protection and those with automatic belts must leave them attached.

For that reason, we are unable to divide the funds between active and passive protection. However, those expenditures directly attributable to passives education in FY 1986 amount to 15 to 20 percent of the $3.0 million Section 403 budget. NHTSA also believes that a substantial part of the remaining budget will help the public to accept passive restraints as well.

Of course, there are other agency expenditures to develop and demonstrate passives technology, including the GSA air bag demonstration program, the police air bag retrofit demonstration program, the Breed program, and a national survey to assess attitudes towards passive protection. In fiscal years 1983 through 1985, approximately $8.2 million has been devoted to these programs.

Employees of NHTSA working on occupant protection education have the responsibility to educate the public on both active and passive protection. They are assigned duties by the type of organizations we work with (for example, national organizations or state and community programs), and not by active or passive education. It is not possible to divide their time according active or passive education.

The efforts to promote safety belt usage are similar to those intended to promote passive restraint, in that educational materials such as brochures and manuals are used in both cases. Much of the educational approach is to convince the public of the need to be protected. The approach is also different in some respects. For example, efforts to promote safety belt usage are directed at persuading people to perform an act (i.e., buckle-up) with equipment that is currently available to them (i.e., safety belts). Efforts to promote passive restraints are oriented to getting people to understand what passive restraints are and how they work. In the research area, the goal is to determine the extent to which the public understands passive protection and to develop approaches which would be helpful in assisting consumers to make decisions about having passive restraints in their cars.

The agency has worked hard to educate the public on passive protection and to develop the technology. The GSA demonstration program, the retrofit program, the Breed program, research to understand attitudes and understanding of passives, and the direct education programs will total approximately $9.7 million in fiscal years 1984 through 1987.

SENATOR LAUTENBERG: New Jersey has passed a mandatory seat belt law, but specifically sought to avoid being counted against the two-thirds of the population which would trigger the rescinding of the passive restraint requirement. On what grounds could you count New Jersey, when the state legislature specifically sought not to be counted?

ANSWER: It is difficult if not impossible to judge the subjective intent of a state in enacting a belt use law. Some Governors and legislators may want their law to "count"; other may intend just the opposite. The Department must judge the laws on the basis of the objective criteria of the rule.

SENATOR LAUTENBERG: At several points in your testimony, you mention the Breed air bag system. What is the status of Breed's relationship with NHTSA?

ANSWER: NHTSA has a contract with the Breed Corporation in which their all mechanical air bag system is being evaluated. Upon completion of the evaluation, retrofit systems will be installed in police fleet vehicles. The evaluation phase is nearing completion, and kit installation is expected to start this summer.

SENATOR LAUTENBERG: How do you assess the cost advantages of the Breed system versus conventional electrical systems?

ANSWER: The agency estimates that in large volume production, the Breed system will cost about $200 as opposed to $320 for a conventional system. The all mechanical Breed concept eliminates the multiple electrical crash sensors, all wiring leading from the sensors to both a diagnostic module and the gas generator, the steering wheel slip ring, the electric squib, the auxiliary capacitor power supply, and the electronic diagnostic module of a conventional air bag system.

SENATOR LAUTENBERG: If you had additional resources, could you use them to accelerate the development of the Breed system so that its cost advantages could be felt in the marketplace sooner?

ANSWER: Additional funding would not accelerate the development of the Breed system. Cost advantages can only be obtained after mass production has been achieved. Large expenditures to produce a proprietary product are behond the scope of Government involvement. From our proposed fleet test program, we expect to obtain enough data to evaluate the performance of the system.

SUBCOMMITTEE RECESS

Senator LAUTENBERG. The subcommittee will hold its next hearing at 10 a.m., March 12, at which time it will hear from the St. Lawrence Seaway Development Corporation and the Panama Canal Commission.

Thank you all very much. This meeting is adjourned.

[Whereupon, at 12:03 p.m., Wednesday, March 5, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 12.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1987

WEDNESDAY, MARCH 12, 1986

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:07 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews and D'Amato.

DEPARTMENT OF TRANSPORTATION

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

STATEMENT OF JAMES L. EMERY, ADMINISTRATOR

ACCOMPANIED BY:
- **STEVE REIMERS, CHAIRMAN, ADVISORY BOARD**
- **LEO McKENNA, FINANCIAL CONSULTANT**
- **WILLIAM A. TUSAIE, DIRECTOR OF CONGRESSIONAL RELATIONS**
- **EDWARD MARGOSIAN, COMPTROLLER**

OPENING REMARKS

Senator ANDREWS. The subcommittee will come to order.

I apologize for being late after we tried to start early this morning. The problem we have, as you know, is we are in conference with the House on another appropriations bill, so I have to depart unfortunately in quite a hurry. But I am glad you could make it today. With our Panama Canal people coming up next, we did not want to get to the point where they had to come back later on.

We are going to hear from the St. Lawrence Seaway Development Corporation first, and then the Panama Canal Commission. In order for us to explore the two agencies' budget requests, I am going to have to request all of our distinguished witnesses to allow us to go immediately to the question and answer period, and forego the usual opening remarks.

That is not going to bother you a bit, because you have already submitted your statements to us, and we will have them in the record as though you have uttered them, every word. You have, I see, Mr. Administrator, Steve Reimers next to you, and that is bound to get you through almost any kind of glitch that you might otherwise anticipate.

It is good to see you here, Steve. I thought you would be out scratching the ground trying to get your crop in.

Before we begin, we have opening statements from Senator D'Amato and Senator Chiles.

[The statements follow:]

STATEMENT OF SENATOR ALFONSE M. D'AMATO

Mr. Chairman, I appreciate this opportunity to say a few words about the proposed fiscal year 1987 budgets for the St. Lawrence Seaway Development Corporation and the Panama Canal Commission. I extend a warm welcome to Seaway Administrator Jim Emery. I would also like to welcome our other witnesses, William R. Gianelli and Dennis P. McAuliffe, who will discuss funding for the Panama Canal Commission.

Established in 1954, the Seaway Corporation is a wholly owned Government corporation responsible for the operation, maintenance, and development of the United States portion of the St. Lawrence Seaway between Montreal and Lake Erie. Among its goals are finding new ways to promote and market the important resources of the seaway system and to control corporation costs.

Revenues of the Seaway Corporation are estimated to be $10.7 million in fiscal year 1987. These revenues are based on projected traffic figures agreed to by the United States and Canadian seaway agencies. The Corporation's proposed budget would use these revenues to pay for operations and maintenance, trade and traffic development, continuing improvements to lock operation equipment, navigation system improvements, and replacement of equipment.

The Panama Canal Commission was created in 1979 by the Panama Canal Act of 1979. It is self-sufficient in its operations and makes payments to the Republic of Panama as specified in the Panama Canal Treaty of 1979. The Commission is now financed by tolls deposited in a special fund. In fiscal year 1987, the Commission is proposed to be financed by general fund appropriations in 1987 with the collections deposited in a proprietary receipt account.

Mr. Chairman, I appreciate this opportunity to offer my remarks. I certainly look forward to hearing the testimony of today's witnesses.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR LAWTON CHILES

I would like to welcome the administrator of the seaway to the committee's hearing today.

We know that the seaway is a vital transportation link between the United States, Canada, and the rest of the world.

We have all been made aware of some of the physical problems encountered in the seaway last year and I will be interested to learn of your plans to overcome those problems and to become informed of any long-range impact on shipping in the seaway.

I look forward to hearing your testimony.

INTRODUCTION OF ASSOCIATES

Mr. EMERY. Mr. Chairman, on my extreme left is our newest member of the Advisory Board, Mr. Leo McKenna, from New York, a financial consultant.

Senator ANDREWS. Good. It is good to have you here.

Mr. EMERY. We have our Advisory Board meeting here in Washington today, and they wanted to attend with me, and I did not think you would object to that.

PREPARED STATEMENT

Senator Andrews. Good. We have your complete statement, Mr. Emery. It will be inserted in the record and we will proceed with the questions.

[The statement follows:]

STATEMENT OF JAMES L. EMERY

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today to submit the Corporation's budget request for fiscal year 1987. Joining me are the Corporation's Comptroller Edward Margosian and Director of Congressional Relations William Tusaie.

In addition to my budget submission, I would like to discuss three major topics: (1) Seaway trade and traffic development, (2) lock rehabilitation, and (3) toll negotiations with Canada.

Budget Estimates

On the basis of the present toll levels and traffic projections agreed to by the U.S. and Canadian entities, the Corporation estimates its revenues for fiscal year 1987 will be $10.6 million. During the fiscal year, the Corporation proposes to utilize $10.5 million for operations and $1.5 million for replacements and improvements. Of the $10.5 million to be applied to operations, $8.5 million will be used for operations and maintenance and $2.0 million for administrative expenses. Replacements and improvements will be funded with $1.4 million from retained earnings.

The Corporation is in a strong financial position today with retained earnings of $10 million which represents an $8 million increase over the past two years. This money is deposited in interest-bearing accounts in minority banks across the nation under the Administration's Minority Bank Program where it is throwing off interest at 9 percent.

Trade and Traffic Development

Since my appointment by President Reagan in late 1983, I have led an aggressive campaign from the wheat fields of Fargo, North Dakota to the Old World port of Genoa, Italy to develop increased trade and traffic for the Seaway. Our efforts and persistence began to pay off last year as industrial exports from United States Seaway ports surged ahead by 52 percent. Large increases were recorded in such commodities as coal, coke, salt and scrap iron. Container and general cargo also rose as did P.L. 480 Title II Food for Peace which was up by 13 percent.

We are optimistic that this uptrend in industrial exports will continue and are working very hard to achieve just that. For example, we have just returned from the Seaway's 1986 Trade Mission to the Southern European nations of Spain, Portugal, Italy and Yugoslavia. Numbered among the 18 mission participants were United States and Canadian shipping companies, labor, grain firms and port directors.

The Mediterranean region was targeted as having excellent trade potential by the Journal of Commerce PIERS data base which lists all exports and imports moving through the Great Lakes region. Our Trade and Traffic Development Office subscribes to PIERS and we have shared copies with Great Lakes ports to pursue cargo leads for shipment via the Seaway instead of competing routes. This data, in my opinion, is the greatest marketing tool we've ever had.

Seaway ports should be competitive for this cargo because of their superior cost characteristics. Indeed, the Booz-Allen Transportation Cost Study we commissioned found that Great Lakes ports are among the most cost-effective in the nation. This is a great tribute to the hard work, dedication and professionalism of Great Lakes Seaway port directors, stevedores, labor and pilots.

A highlight of the upsurge in industrial cargo was the Seaway's successful breakthrough into the marketplace for Department of Defense cargo. This was made possible when Fednav Lakes of Detroit began monthly U.S. flag service between the Seaway and Europe specializing in military equipment and household goods. This coming season Fednav will enter a second vessel into the service for regular bi-weekly sailings.

The potential for increased military shipments is huge as the Center for the Great Lakes recently estimated that 23 percent of DoD cargo valued at $28 billion was manufactured in the Great Lakes region in 1984. The Seaway's share was estimated to be less than .2 percent.

To encourage increased participation in this trade, the Corporation co-sponsored a seminar on military cargo in Chicago on January 15, 1986 for Great Lakes port directors, shipping companies and defense contractors. It is critically important that the Seaway's share of defense cargo shipments increases because the Center for the Great Lakes estimates that $250,000 is pumped into the regional economy every time 5,000 to 10,000 tons of cargo is handled at a Great Lakes port.

I want to thank Members of the Great Lakes Congressional Delegation who supported the Seaway's entrance into the defense cargo market and I welcome their continued support in the future.

Unfortunately, the strong gains registered in industrial exports did not extend to agricultural exports. After holding steady at the 23 million ton level for the past four seasons, the bottom fell out of the Seaway grain market last year with United States grain off some 2.5 million tons and Canadian grain off by 4.5 million tons. That both nations suffered a down year is somewhat of an anomaly, as in the past, weakness in one export market was usually offset by strength in the other.

Nonetheless, we have two reasons for cautious optimism in the year ahead. One reason is the leadership of the Reagan Administration in working with the Big Five nations to lower the dollar relative to other currencies. The dollar has fallen 30 percent in the past year and this will help make United States grain more price competitive.

The second factor is the long-term grain sales agreements which both our nations have entered into with the Soviet Union. Indeed, shipments of United States grain to the Soviet Union increased to 600,000 tons last year, putting us on the upswing of a U-shaped curve which is traceable to the Carter grain embargo.

To take advantage of these market opportunities, we have formed a Seaway Export Grain Task Force composed of grain companies, growers associations and state agriculture departments to promote increased grain shipments through the Seaway. We have also brought on staff a Russian-speaking trade specialist to work with Soviet grain buyers and other foreign markets such as North Africa.

I don't want to sound corny, but grain is the Seaway's bread and butter cargo and unless we can regain market share, the waterway will never reach its full potential. This is especially true for Canada because, of its grain exports, one-half moves through the Seaway.

Lock Rehabilitation

The Seaway made world headlines again last year when the wall of lock seven of the Canadian Welland Canal collapsed unexpectedly. While this incident was certainly unfortunate, I want to congratulate the Canadian Seaway Authority for making necessary repairs and restoring service as soon as possible. The Canadian mishap has raised questions about the conditions of the two United States Seaway locks, Eisenhower and Snell, at Massena, New York.

In my testimony last year before this committee, I disclosed that we had just received a Reconnaissance Report prepared by the Buffalo District Office of the U.S. Army Corps of Engineers. The report recommended large scale work at both locks including full restoration of deteriorated concrete at Eisenhower and improvement to the structural stability of both Eisenhower and Snell. The Corps estimated a $40 million price tag for this work.

We elected to proceed with the first stage of the project this year using funds from the Corporation's capital reserve account.

We have awarded a $2.3 million contract for concrete rehabilitation at Eisenhower lock. This work is now underway on a round-the-clock basis and will be completed in time for the opening of navigation in early April. I personally inspected the worksite in early February and, frankly, I'm glad we got started because the deterioration is worse than we thought.

To address the lock stability issue, we have contracted with an engineering team for the highly respected Clarkson School of Engineering in Potsdam, New York to determine exactly what type of work needs to be done.

We are also contracting with an engineering consulting firm to develop a contingency plan should we experience some form of lock shutdown. The purpose of the plan is to lay out a blue print of the workers, equipment, materials and procedures needed to get us back in operation as soon as possible.

In our best opinion, there is no imminent danger of shutdown at either United States lock. At the same time, we are convinced beyond any doubt that the preventive maintenance and rehabilitation work must be continued.

Toll Negotiations with Canada

Each year the days of autumn find the United States and Canadian Seaway agencies huddling in Ottawa or Massena to review their respective revenue needs for the coming year for both the joint section of the Seaway stretching from Lake Ontario to Montreal and the Canadian Welland Canal which connects Lakes Erie and Ontario.

For the 1984 season, both agencies agreed that projected revenues would be sufficient to cover expenses for both sections of the Seaway without resorting to a toll increase.

The toll freeze was extended through 1985 based upon our agreement to share $700,000 of our revenues with the Canadian Seaway Authority to help them offset a projected deficit.

For 1986, the United States has again rejected the need for a toll increase at the joint section of the Seaway and has again agreed to share $700,000 with Canada to enable them to freeze tolls as well.

Although 1985 United States toll revenues fell $3 million from 1985 levels, we are able to maintain the freeze, help our Canadian partners, and continue Seaway operations and maintenance at full strength because of the management and productivity improvements we have installed over the past two years. My staff has recently compiled a list of those improvements and related annual savings which follows: Realign organization, $660,000; lock operations, $303,000; wage negotiations, $170,000; ice studies, $100,000; security function, $59,000; reduction of overtime, $30,000; filling positions at lower grades, $25,000; reduce space rental, $20,000; and leased space, $15,000.

I want to thank all Seaway employees, including Local 1968 of the American Federation of Government Employees, for their cooperation in making many of these improvements possible.

Although we have achieved a toll freeze for the joint section of the Seaway for 1986, the Canadian Seaway Authority feels that it must impose a 15 percent increase in tolls for the Welland Canal in order to meet projected operating expenses. This translates into a 6 percent toll increase systemwide.

I empathize with the disappointment of Great Lakes port directors, shipping associations and labor over this increase as expressed at our public hearing on the matter which was held here in Washington on February 5th. However, the alternative in terms of Welland service curtailments or maintenance deferrals could be even more damaging to the Seaway's long term interests.

In discussions with Canadian Seaway officials on this matter, I have attempted to impress upon them our preference to generate needed additional revenue through increased traffic levels instead of through higher tolls. They have responded by agreeing to work with us closely over the next year to devise a system of incentive tolls to do just that. I also plan to obtain the input of Great Lakes port directors and others on the form these incentives should take.

Mr. Chairman, this concludes my prepared statement. I will be happy to respond to questions you or other members of the committee may have.

WELLAND CANAL TOLL HIKE

Senator **ANDREWS**. Mr. Emery, in your prepared statement you state that the Canadian Seaway Authority felt it was absolutely essential to impose a 15-percent increase in tolls for the Welland Canal, which translates into a 6-percent toll increase systemwide. Is this final? Or is there still some room or time to negotiate a final seaway tariff?

Mr. **EMERY**. No, sir; this is now final. The only thing lacking is the exchange of formal notes between the State Department and the Department of External Affairs in Canada. I might point out they first came to us with a 28- to 35-percent increase, which we told them was absolutely unacceptable. That was whittled down to 6 percent.

We did hold a hearing here in Washington. The alternative to our going along with the 6 percent was a reduction of service on the Canadian side, which we did not think was feasible. So we reluctantly agreed upon it with the understanding that we would go into some very serious negotiations on long-range toll increases, planning, and how we are going to increase trade and traffic on the system. I forwarded my letter to the Canadians on that. We hope to have discussions underway.

I just felt that it would be counterproductive to close the system early, 2 weeks at the end of the year, and jeopardize the grain movements at that time, rather than continuing with full service.

Senator **ANDREWS**. Now the toll increase only affects the Welland Canal, which is controlled by the Canadians? That is right?

Mr. **EMERY**. Yes, sir.

Senator **ANDREWS**. How much of the seaway's traffic necessarily transits the Welland Canal? And how much transits only from Lake Ontario to Montreal?

Mr. **EMERY**. About 20 percent of the traffic transits only the Welland. About 10 million tons go through that system.

Senator **ANDREWS**. Has anyone done an analysis on how this increase will affect the level of traffic moving through the seaway?

Mr. **EMERY**. We have discussed that with the trade, with port directors, with trade analysts, and our recent trade mission coming from Europe. It did not seem to have any impact. We have no concrete study other than, it is my opinion, that every time you raise prices you are bound to lose some cargo if you are not competitive.

We have been working with the ports, with labor, to keep all costs down in the system, and I think we have achieved that this year. I am hoping that this is not sufficient to warrant any falloff of cargo. I think that we can maintain a good service and our standards. In talking with our customers in the Continent, I think we are in good shape there.

U.S. SHARE OF TOLLS

Senator ANDREWS. For 2 years in calendar years 1985 and 1986, the United States is foregoing approximately $1.4 million in revenues by not taking its historical share of toll receipts. How much longer can the U.S. seaway forego this revenue?

Mr. EMERY. My main purpose in doing that 2 years ago was to freeze the tolls for the third year. In order to preclude a larger increase, we again agreed with the Canadians that we would forego it this year. I do not think we can continue indefinitely doing that unless we have a continued upturn in cargo. I would say that we cannot do it probably much longer than another year, at best.

But again that was a judgment call that I felt we had to keep the toll levels in place and we are willing to give up that kind of revenue. I do not like to share my cost savings with someone else who I feel should do the same thing, but I thought it was necessary for the shipment of products from the Midwest that we maintain that toll level.

Senator ANDREWS. Well, I totally agree with you. As a matter of fact, this committee canceled those bonds, as you know, so that you did not have to increase the toll rates.

Mr. EMERY. Right.

SEAWAY'S FUTURE

Senator ANDREWS. Now we find the Canadians increasing the toll rates on the parts of the seaway that they control, while we continue to forego any increase in tolls on our parts of the seaway. How long are we going to play patsy with the Canadians?

Mr. EMERY. Well, I think it is time now, and I hope we can call upon yourself and your colleagues, and indeed the Government, I think it is time that both governments have to reassess what is the seaway, what is its value to both countries and where we are going with it.

We are faced with tremendous subsidies of Canadian railroads that the Government subsidized, the railroads that bypass the seaway, and we are told that that may happen with the grain out of Thunder Bay going to the west coast, rather than out to the seaway. That will further cause decline.

And both countries have a tremendous investment. We have about a quarter of a billion dollars invested ourselves in today's dollars, and I think that we have to address it from a higher level than I can do it at the seaway authority. We are starting our discussions, and I am going to enlist the Secretary of Transportation's help, and hopefully the State Department, in both countries' assessment of the future.

CANADIAN TOLLS

Senator ANDREWS. Can the Canadian seaway toll revenues be used only for seaway purposes, as it is in the United States?

Mr. EMERY. Yes, sir; there was an attempt by the Government to—they had a $30 million reserve. The Government tried to take that $30 million, and there was a battle in Canada. They have retained that $30 million, and it is being used, as we are using it, to do some repairs and some reconstruction.

They do have a different system. They operate all the bridges across the seaway. We operate one jointly with them, but there are no revenues from the seaway tolls that go into that bridge.

On the other hand, the Canadians, every bridge that crosses the seaway in Canada is part of their authority, so they have to operate those bridges from their toll revenues.

Senator ANDREWS. But the Canadians are using the full amount of their toll revenues to rehabilitate the seaway.

Mr. EMERY. Yes, sir.

CANADIAN COAST GUARD FEES

Senator ANDREWS. It has been reported that the Canadian Government might be imposing Coast Guard user fees for those ships that transit the seaway. Are they contemplating such charges that might impact on seaway traffic?

Mr. EMERY. Yes, sir; they have had hearings on it, and many people from the trade of this country, shippers, members of the ports, have been up there and testified. If they put a user fee on all of their recovering costs of operating the Coast Guard in other areas, it will have an impact on using the seaway.

Senator ANDREWS. Have you gone through the Department of Transportation and talked to the Secretary of Transportation about having our State Department types mention to the Canadians that that is not exactly a straight-up way to operate?

Mr. EMERY. There have been communications already to the Canadians that we do not favor such an increase.

Senator ANDREWS. What responses are you getting?

Mr. EMERY. Their hearings are still in process. We are hopeful that we are going to have a better understanding. Again, that is what I brought up early on that I think the two governments have got to look to see what they want the seaway to be, not only today but in the future, and I think we have to really address that in a very positive manner, and it has got to be put on the top of the agenda on our discussions with Canada.

We are just starting that process right now based upon this last round of toll increases.

Senator ANDREWS. Well, the Canadians come into Thunder Bay. They have no other way to go in that area other than to go all the way to the west coast. They can come into Thunder Bay with a subsidized rail rate. They can go to the West Coast with a subsidized rail rate. Nonetheless, they can still jack up the toll charges on the seaway, and they are not going to lose their share of the traffic. We are, because our cargo then begins going down to the gulf, or going all-rail to some other port.

Mr. EMERY. Yes, sir.

Senator ANDREWS. So it is a distinct disadvantage to the American farmer to have this kind of cat and mouse game played with the rates by the Canadians, and it does not affect nearly as much the Canadian share of the traffic, because it ends up being Government subsidized whatever way it goes.

Mr. EMERY. I totally agree with you. The Canadian Parliament has just appointed a committee of their members to address the future of the seaway and its impact, and I think that is the perfect vehicle for us to involve hopefully some of our Members of Congress and the Senate to jointly meet with them and come to some final solution on this.

BOOZ-ALLEN COST STUDY

Senator ANDREWS. Now the Booz-Allen study commissioned by the seaway stated that the Great Lakes ports are cost competitive in handling corn and soybeans originating in Illinois, Wisconsin, and Ohio. Conspicuous by its absence was North Dakota grain, in which I have some more than passing interest.

How does the seaway compare for its handling of wheat through the Duluth-Superior ports?

Mr. EMERY. Well, first of all, when we had the Booz-Allen study and they did look at Duluth, I think it is important to note the North Dakota grain accounts for 55 percent of their grain shipments. The Booz-Allen study found that——

Senator ANDREWS. Fifty-five percent of the Duluth shipments?

Mr. EMERY. Fifty-five percent of the Duluth——

NORTH DAKOTA GRAIN

Senator ANDREWS. What percent of the seaway shipments is North Dakota grain?

Mr. EMERY. Of grains?

[Pause.]

Senator ANDREWS. What percent of seaway shipments is of Duluth origin?

Mr. EMERY. Grain—I can start at the top—accounts for about 54 percent of our total tonnage. About 70 percent of that is Canadian grains. The balance is split between Duluth, Toledo—I could get that exactly. I would have to guess that we are probably someplace in the neighborhood of about 2 million tons of grain coming from Duluth—last year, 2.3 million tons of grain came from Duluth. Fifty-five percent of that is North Dakota grain.

Senator ANDREWS. Say you got 1.5 million tons out of North Dakota.

Mr. EMERY. About a million and a half tons.

Senator ANDREWS. How many tons do you ship in the seaway?

Mr. EMERY. Last year we shipped just shy of 40 million tons.

Senator ANDREWS. Total cargo, or just grain?

Mr. EMERY. Total cargo.

Senator ANDREWS. So we are doing almost 5 percent.

Mr. EMERY. I must point out that the previous year——

Senator ANDREWS. Four percent.

Mr. EMERY [continuing]. Duluth shipped over 5 million tons. So that was just about cut in half this year from grain sales out of Duluth.

Senator ANDREWS. Why?

Mr. EMERY. One, the grain sales were down for both the United States and Canada. The grain sales were off tremendously in the world market. There is a great deal of competition with the strength of the dollar. We are losing grain shipments from your area because of the unit train rates going to other coastal ports. The costs of shipping the grain from the agricultural areas to Duluth by truck are just higher than they are by going by unit train to other areas. But our whole—if you look at the total grain exports of the United States last year we were down considerably.

Senator ANDREWS. What is the price difference on unit trains to Duluth versus unit trains of the coast? Do you have that?

Mr. EMERY. I can get that. I can tell you it is a better rate, because they can pick up grain after they leave there and make the whole unit train not only from North Dakota but through Minnesota going to its final destination, and there is the shortness of haul. They cannot fill that train going to Duluth, and therefore there is a better rail rate going elsewhere.

Senator ANDREWS. The railroads have never instituted special rates to the head of the lakes?

Mr. EMERY. No, sir.

Senator ANDREWS. Because they do not want a shared business with the seaway, I gather.

Mr. EMERY. I might point out, the other thing is the availability of ships. The seaway was built originally for iron ore coming in and grain going out. It was a good mix of two-way cargo. With the iron ore going off, we then shifted to ships bringing in imported iron ore and steel, and that was going very well and gave them return cargo until we put the brakes on the imported steel, and now we are back to no availability of two-way cargo. That is something that we are working on.

I think that with the plans that we have instituted in working with the grain users, the grain markets, and our trade mission, we took Ed Ross, the head of the Minnesota Wheat Growers with us, a very valued member of that trade mission. We had a member of the Lewis Dreyfus Corp. with us, a very valued member of the mission. And we are putting the focus on grains.

We have put together a grain task force that brings together people from the agricultural States working with us to get a better share of the market going through the seaway. We have got an embassy outreach program working with buyers of grain, trying to get them to commit their people to the seaway, and we have got a program that we are starting now with Northern Crops Institute to combine our services with theirs to try to develop a stronger program that we can assist them and they can assist us.

SEAWAY RELIABILITY

Senator ANDREWS. You are trying to build a reputation as a reliable transportation means, as I understand it.

Mr. EMERY. Yes, sir.

Senator ANDREWS. How can you do that if you keep having locks caving in and bridges collapsing and the rest?

Mr. EMERY. Well, thank God, it has not happened on our side, but I am concerned——

Senator ANDREWS. Well, no; but whether it happens on our side or their side, it is equally detrimental.

Mr. EMERY. I understand. Hopefully that is behind us. We have gone forward this year with the largest concrete restoration project in the history of the seaway, over 4,000 tons of concrete have been poured, and hopefully that will put us in place.

Beyond that, we have just gone out for a bid for an engineering study to give us a detailed plan on what repairs we must make over the next 5 to 10 years, and a detailed analysis of what has to be done to keep us up to par. And we have also hired, or have gone out to bid for a contingency engineering firm to come in and develop a plan of "what if" situations. What if this goes down? Be prepared to come on the scene immediately and supervise the reconstruction.

The Canadians are likewise going through each lock system with engineering firms—one firm in the Welland, one firm in the St. Lawrence—to develop the same type of plan for them. I hope we have got that behind us. Canada has spent, or will spend this winter, $8.5 million on repairs on their part of the system. So hopefully that is behind us.

Senator ANDREWS. On October 16 of last year I wrote Secretary Dole and I stated, "I do expect that the corporation is doing everything possible to ensure that the types of accidents that have occurred on the Canadian portion of the seaway are not repeated on the U.S. portion of the facility."

From what you have just said, it would appear to me that you share that feeling.

Mr. EMERY. We do, and that is why we undertook this massive program this year. It is about $3.5 million that we were able to take out of our retained earnings. We will continue to fund a major maintenance program out of the retained earnings, and hopefully until we can turn it around and start building that retained earnings back. Thank gosh we have built up a reserve that allows us to do that.

Senator ANDREWS. In other words, everything that you have identified as being a weak spot in our portion of the seaway is now fixed?

Mr. EMERY. It is in the process of being fixed. The engineering study will come back to us in 6 months and we will bring that to you immediately and lay out for you what they recommend we have to do in the future to bring us up.

CANADIAN LOCK MAINTENANCE

Senator ANDREWS. Now quite candidly, can you say the same thing for the Canadians? You know that part of the seaway that is theirs. Have they identified, and are they working to fix up every part of their seaway that is a weak spot?

Mr. EMERY. I am confident that they are. They have employed the same tactic that we are with outside engineering firms to come in and give them a complete study of all the tests that are available to them to determine if there are any weak spots and what should be done.

Senator ANDREWS. So you are telling us that these kinds of accidents that stamp the seaway as an unreliable transportation route should be at an end?

Mr. EMERY. I think it is at an end, and it is up to us now to get the credibility back. That is one of the things that we addressed on our last trade mission. I did talk to, when the Welland Canal was down, I talked to about 25 shipping firms and make sure exporters and importers to the system, primarily on the Continent of Europe, and was fully assured that they do not intend to pull out of the system; that they have been using it for 25 years.

On our trade mission, Yugoslav Lines announced they are coming back this year for the first time in several years to the lakes and give us regular service to the Mediterranean. So I believe that the credibility is being established, but I will not be satisfied until we get the engineering studies in hand and to commit all the resources we have to bring that system up to par.

SEAWAY FUNDING

Senator ANDREWS. Is there anything that this committee can do to help you in that? Or are we giving you adequate funding to do what needs to be done?

Mr. EMERY. The funding that—well, it all depends on what happens this year with Gramm-Rudman, because if we collect the money and we are outside of the budget cycle, in my thinking, it is user fee money and we are outside of it, yet we are capped by Gramm-Rudman and that cap is going to affect our repairs.

Senator ANDREWS. In other words, what you are telling us is the money you collect in tolls on the seaway, under Gramm-Rudman you are not going to be able to spend to fix the seaway?

Mr. EMERY. I cannot spend. And I think I should have that flexibility to spend that money to fix it when people are paying for it.

Senator ANDREWS. That is another reason why Gramm-Rudman is a faulty piece of legislation, because it just boggles the imagination to pick up seaway user charges and then under Gramm-Rudman you cannot spend them to fix the seaway. How do you explain that to the shippers of transit? How do you explain it and get any more customers in there.

EUROPEAN TRADE MISSION

You did a seaway trade mission for 1986 that took you to seven European countries. How long were you gone, and what cities did you visit?

Mr. EMERY. We were gone 2 weeks. We went to Barcelona, Spain; Lisbon, Portugal; Genoa, Italy; Rome, Italy; and Split, Yugoslavia. It was disappointing in a couple of ways, although I guess we faced reality in that Spain and Portugal are joining the Common Market and we are going to lose significant grain sales to them at the end of 5 years.

I think there is a bright spot in that I think they are going to be looking for more soybean and soybeans products. Again we had a couple of grain experts with us, and we are pursuing that.

I think the biggest breakthrough that we had was in coal. I know that does not help the farmers in your area, but it may help some coal-producing States here in the Appalachian area. I think there is a great future for some coal that will help us bring up the tonnage. We are going to develop that.

They announced that the Yugoslav Lines is coming back for the first time in several years, and that is going to give us that scheduled service to the Mediterranean.

SEAWAY PROMOTION

Senator ANDREWS. I understand you have been looking for funding from wheat groups and others to help promote the seaway. Is this something you cannot do yourself?

Mr. EMERY. What we are trying to do is put a cooperative program together primarily with the States bordering the seaway, the Great Lake States. In fact, we also have some interest from North Dakota joining us in that, a common promotion fund where we would jointly decide with the States and with our organization where is the best place to put promotion funds in to spread the dollar.

A lot of people do separate things, and I think you can get more bang for the buck if we do it jointly and together. So we are trying to identify new projects. And one of the ones we are working with is Northern Crops Institute where we would work with them to fund some of these groups that they are bringing in from other countries.

One of the things—and I am glad you raised that, because I feel that in our marketing efforts we have to go out and spend money to bring new business to the seaway. We are committing about 10 percent of our funds today to marketing to build up future revenues for the Corporation, and it is necessary that we do that.

There is some concern with some people that we ought not be spending money for entertainment and in spending it in trade development. I feel it is absolutely essential that we do that. We are not lavish in what we do, but I think that we certainly need to compete with other port ranges and other entities, and when they are doing things like that we have to go in trade missions, we have to have lunches. When I bring in a group of experts from the farm community for our grain task force, I think it is incumbent that we buy their lunch.

We are not going to waste all our revenues there, but we have to spend money to make money.

Senator ANDREWS. But you do not have any trouble doing that.

Mr. EMERY. Well, I hope that we have the blessing of this committee and others that allow us to do that.

Senator ANDREWS. Within reason, we want you to do your utmost to promote it.

Now I assume that since Mr. Reimers has been sitting right next to you quiet through all of this, and since he is not a bashful individual, that he agrees with everything you have said.

Mr. REIMERS. Pretty much.

Senator ANDREWS. What do you mean, pretty much? [Laughter.]

Are you going to even haggle on this?

Mr. REIMERS. We have not gotten our $20,000 out of North Dakota yet to go on this cost-share deal.

Senator ANDREWS. If you were a better, shall we say, proponent of the seaway you would be able to have that one nailed down right away.

Mr. REIMERS. Well, I am working on it.

Senator ANDREWS. And again, if you have got funding within the seaway of moneys that we collect in tolls, maybe you can sneak that around Gramm-Rudman in some way and we will not have to bother the States.

Mr. REIMERS. All right.

Senator ANDREWS. I would think your ingenuity will prevail.

Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

It is good to see my friend, the Seaway Commissioner.

Mr. EMERY. Senator, could I introduce to you our newest member of the Commission on my extreme left, Leo McKenna, from New York, who I know that you were very instrumental in helping, and he is joining us for the first meeting today. He is to my left. And to my right is Steve Reimers, the Chairman of our Advisory Board from the great State of North Dakota. Bill Tusaie, Director of Congressional Affairs, is on my left. And to my far right, Ed Margosian, who I know you met a year ago up in Massena, our Comptroller.

INSPECTOR GENERAL'S REPORT

Senator D'AMATO [presiding]. Let me ask you, if I might, on September 18, 1985, the Inspector General of the Department of Transportation submitted a report that was critical of the Corporation's renovation of the Cape Vincent facility. It also criticized some other expenditures, a total of something like $5,200 that was spent over the annual limit of $3,000 for nonpersonal services.

I know that you have provided a written response to the report for Deputy Secretary Burnley, and I would like to give you this opportunity to offer publicly your side of the story. Would you care to comment on the inspector general's report?

Mr. EMERY. Yes, sir; all of that is addressed to contracts, first of all, all of the criticism against the contracts, each contract was under $10,000. We ended up with a $50,000 savings in security as a result of a contract costing us less than $10,000; $100,000 in mailing list costs as a result of a $3,500 award, and $100,000 in dental insurance savings.

CAPE VINCENT

So I feel that every contract that was awarded was awarded to a topflight person to do the job that we asked them to do. We were criticized as you know for fixing a former Coast Guard facility in Cape Vincent. Actually, as a result of the letter sent to you and Senator Moynihan and Congressman Martin, we responded to your office, and I have spoken personally to the staffs of each of the Members of Congress, and they were satisfied with our response that we had adequately handled it.

There is a question that maybe the facility was fixed up too well. The major thrust was that at that piece of property which we got for nothing from the Government there was a pier that probably would cost $500,000 to construct. We got that free. We needed then to rehabilitate the building there to use as an upriver operations base, that allows our tug operators and our people that set the buoys in Lake Ontario and in the river a place to remain overnight twice a year.

We instituted last year a speed surveillance program in the Thousand Islands area. I know your office received complaints in the past, we do not receive complaints anymore, nor do you, and that person works out of the Cape Vincent facility. We have our oil spill equipment stored there, because we are the persons charged with immediate response to an oil spill.

We now have both ends of the river covered in our jurisdiction, and we use it for—when it is not being used on an official basis, it is available to our employees and their families to be used on a cost-recovery basis. We have documented every day's use of it. We think the facility is meeting the needs of what it was established for, and I know that it is going to be further reviewed as we go into the years by both the Secretary's office and by the inspector general.

I am perfectly satisfied that it is serving the purpose for what it was intended, and it is not outlandish in any manner of anybody's opinion.

MARKETING EXPENDITURES

The third item was the expenditure—it should be noted that neither the inspector general nor GAO criticized the fact that we were misspending money. They were criticizing that we did not charge it to the proper account. So my comptroller who has been with us for 25 years will tell you that that is the way we have always charged those items to those accounts, and now we are singled out. We have corrected those I think satisfactorily, but it is like a Chinese menu. Which column do you put it in, A, B, or C, and we put it in A, and they said it should have been in B.

Senator D'AMATO. So what you are saying as to the bookkeeping is that there was not anything unusual, but rather it is the same system that has been utilized for 25 years. Different accounting procedures have been suggested, and you are implementing those suggestions.

Mr. EMERY. We are implementing those. I welcome everyone's suggestive criticism on how we can improve our operations. I do, however, object to somebody coming in and trying to supersede my judgment on a judgmental decision, and I have so made that known to the people who have instituted that change.

As I just mentioned to the chairman, I think one of the big hangups was our marketing and the funds we spend on marketing, and whether they are in fact entertainment or marketing expenses. I just mentioned that as you came in, to the chairman, and said that in trying to gain new business we have to spend some money to get that. It is a fine line. We are not violating any rules or laws, but we do have to spend some money on entertainment to bring people to the system, particularly those from foreign countries who are using the system. That is their style of doing business; and we are not outlandish in what we are trying to do.

So I think at best—and in fact that is the one point that we could not resolve with the inspector general, and I said then we ought to go to Congress for a resolution of it. Because our charter, in my opinion, gives us the authority to spend money as we incur the expenses, and pay for it, and that is what we are doing. But nobody in either the GAO or the Inspector General's Office said we had misappropriated funds.

Senator D'AMATO. Fine. Let me commend you for your presentation today and for the job you are doing. It is not an easy one, and I think you are headed in the right direction. It is always good to see you, and I am glad you had an opportunity to set the record straight.

Mr. EMERY. Thank you. I appreciate the support of this committee, and particularly, Senator, your support in what we are doing in New York on the system that serves my good friend here, and my good friend the chairman to ship his grain through our seaway.

SUBMITTED QUESTIONS

Senator D'AMATO. We have a number of questions from Senator Andrews and Senator Chiles that we are going to submit to you and ask you to answer them for the record.

Mr. EMERY. Thank you very much.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

WELLAND TOLL HIKE

SENATOR ANDREWS: The United States is giving up $700,000 a year in revenue by not increasing tolls for the other parts of the Seaway. Will the United States forego even more revenue because of traffic diversion?

ANSWER: At this time, the Seaway Corporation does not anticipate significant traffic diversions due to toll increases. The Corporation's efforts to market the system may help to reverse any negative impact from toll increases.

SENATOR ANDREWS: What would the toll hike have been if the U.S. had collected its historical share of total revenues?

ANSWER: The Canadian Seaway Authority originally proposed a toll increase of 28 percent at the Welland Canal. If the Seaway Corporation had not agreed to share the additional 2 percent, the increase could have been as high as 28 percent.

SENATOR ANDREWS: Why did the Canadians feel it was necessary to insist on this increase for the Welland Canal?

ANSWER: The Canadian Seaway Authority needs the additional revenue to cover operating costs. For example, Canadian labor costs will increase 4 percent in 1986, the winter maintenance program is estimated at $8.5 million and a total operating deficit of $20 million is projected. Also, the repair of the collapsed lock wall on lock #7 of the Welland Canal cost $5 million.

SENATOR ANDREWS: How do you think that a toll increase at this time, so soon after two successive Seaway closings, is likely to affect the Seaway's overall ability to attract cargo?

ANSWER: The Corporation believes that the toll increase will not cause significant traffic diversions.

SENATOR ANDREWS: Are the Canadian authorities contemplating any other charges that might affect the cost of transiting the Seaway?

ANSWER: The Corporation is not aware of charges other than tolls that would affect the cost of transiting the Seaway.

SEAWAY COMPETITIVENESS

SENATOR ANDREWS: At this time, is it more cost-advantageous to ship North Dakota wheat and other products via railroads to the East or by barge to the Gulf Ports? If so, why is this?

ANSWER: Approximately 55 percent of Duluth/Superior wheat shipments for export originate in North Dakota annually. Cost advantages of one route to another vary throughout the shipping season. Rail unit train contract rates and excess barge capacity, combined with a depressed export market and high dollar, have intensified competition with the Seaway route over the past several years.

SENATOR ANDREWS: What is the price difference on a bushel of wheat among the alternatives — rail to East Coast ports; rail to West Coast ports and by barge to Gulf ports versus going through the Seaway?

ANSWER: Representative port delivered price differentials during the 1985 season indicate the following comparisons existing in September 1985; in dollars per bushel of wheat:

East Coast - $2.65
West Coast - $3.61 to $4.20
Gulf - $3.41 to $3.43 (rail), $2.99 to $3.98 (barge)
Duluth via Seaway - $3.84
(ranges cover different grades of wheat)

SENATOR ANDREWS: How can the Seaway become more cost competitive for shipment of grain out of North Dakota?

ANSWER: Encouragement of greater vessel utilization. Inbound import steel and other general or break bulk commodities helps to position vessels in the lakes for outbound grain. Roundtrip loaded transits bring ocean grain rates down. Generally, the world market for grain needs to rise considerably.

SENATOR ANDREWS: What percent of the grain cargo transiting the Seaway is P.L. 480 cargo?

ANSWER: Total grain cargo on the Seaway in 1985 was 16,374,978 tons. P.L. 480 grain amounted to 9,115 tons, less than one-tenth of one percent.

SENATOR ANDREWS: What percent is this of the total amount of P.L. 480 cargo that leaves the upper Mid-West, Great Lakes area?

ANSWER: Total P.L. 480 cargo amounted to 261,917 tons in 1985. Of the total amount, grain accounts for 34 percent.

OPERATING EXPENSES

SENATOR ANDREWS: Operating expenses for FY 1986 rise by almost $4.5 million over the FY 1985 level. ($13.4 million versus $8.9 million) Why?

ANSWER: The increase in operating expenses is due to extraordinary lock rehabilitation, deferred maintenance and a normal increase for inflation.

SENATOR ANDREWS: It appears as though a major part of this expense is due to extraordinary lock repair, in addition to the normal capital replacements and improvements. Is that essentially correct?

ANSWER: Yes. If lock rehabilitation is excluded, the Corporation's operating expenses have been held to the rate of inflation.

SENATOR ANDREWS: What extraordinary work was done? Was it all on the Eisenhower lock vertical lift gate?

ANSWER: In December 1985, the Corporation awarded a contract to Germanetti Construction Associates of Massena, New York for concrete repair at Eisenhower Lock. The work includes repairs to the chamber walls and culverts of six lower wall monoliths. In addition to the concrete work, Atlas Painting and Sheeting Corporation is sand blasting and painting the vertical lift gate at Eisenhower lock.

SENATOR ANDREWS: Why was it necessary to do this work?

ANSWER: The extraordinary lock rehabilitation work was done as a means to ensure the United States Locks are not the cause of a system shutdown. The work is consistent with the lock rehabilitation reconnaissance report prepared by the Buffalo District of the Corps of Engineers.

SENATOR ANDREWS: No "extraordinary capital work" appears scheduled for 1987. Why not?

ANSWER: At this time, the Corporation is studying exactly how much lock rehabilitation is needed, what it will cost and possible funding options. Until these issues are resolved, the Corporation cannot schedule additional repairs.

SENATOR ANDREWS: Your letter to me (December 3, 1985) follows up on the Army Corps of Engineers report that recommended a $39.2 million rehabilitation project for the Eisenhower and Snell locks. Is the 1986 program of $3.2 million in capital repairs a downpayment on that recommendation?

ANSWER: The concrete repair is in accordance with the Corps of Engineers reconnaissance report.

SENATOR ANDREWS: When does the Seaway Corporation believe it will undertake the rehabilitation recommended by the Corps of Engineers?

ANSWER: The Corporation must resolve engineering and funding issues before additional work is undertaken.

SENATOR ANDREWS: Where will the Corporation get its funding to pay for these improvements?

ANSWER: The Corporation is studying possible funding options.

SENATOR ANDREWS: How was the $3.2 million of 1986 extraordinary lock repair paid for?

ANSWER: The Corporation is using retained earnings for the FY-1986 extraordinary lock repair.

RETAINED EARNINGS

SENATOR ANDREWS: What is the balance remaining in retained earnings?

ANSWER: The balance in retained earnings as of December 31, 1985 amounted to $12.2 million. The funds are deposited in designated minority banks.

SENATOR ANDREWS: Are there any restrictions on the use of these funds for normal or extraordinary projects?

ANSWER: No. The Seaway Act only requires that these funds be utilized for the operation, maintenance and development of the U.S. portion of the St. Lawrence Seaway.

SENATOR ANDREWS: Does the Corporation intend to use any or all of this amount to fund the Corps recommended capital improvements? If so, how much? If not, why not?

ANSWER: In FY-1987, the Corporation plans to use $1.4 million of retained earnings to fund replacements and improvements. Current plans call for drawing down retained earnings over the next five years unless actual revenues prove to be higher than current forecasts.

SENATOR ANDREWS: The fund balance of retained earnings drops by $5 million from 1985 to 1986 ($11.9 million to $6.9 million) and from 1986 to the end of 1987 by $1.4 million ($6.9 million to $5.5 million). Why?

ANSWER: The drop of $5 million from 1985 to 1986 is principally due to a major rehabilitation project of $3.4 million that is essential to keep our lock facilities in a safe, reliable condition for the upcoming revenue-producing navigation season. The balance of $1.6 funds the capital outlay ($1.5 million) and a minor portion of the operating costs.

The $1.4 million drop from 1986 to the end of 1987 funds the capital outlay program.

SENATOR ANDREWS: Are retained earnings being used in 1986 for extraordinary lock repair or for normal replacements and improvements? What is the drawdown for 1987 being used for?

ANSWER: In Fiscal Year 1986, retained earnings are being used both for extraordinary repair and normal replacements and improvements.

The drawdown for 1987 is being used for normal replacements and improvements.

SENATOR ANDREWS: It appears that in an effort to keep tolls down the Corporation is (1) foregoing its historical share of the tolls collected and (2) using its fund balance not only for extraordinary purposes but for normal repair. Is this true?

ANSWER: Our actions are motivated by the reasoning that if we keep tolls down, the lower tolls will eventually attract new cargo, increasing use of the system and, thereby, providing sufficient funds to operate.

The Corporation is using retained earnings to fund extraordinary repairs and replacements and improvements.

SENATOR ANDREWS: If so, for how much longer can the Corporation do that before the retained earnings are exhausted? Please elaborate.

ANSWER: Over the next six years (1986-1991), the Corporation is estimating a $9.2 million reduction in retained earnings. In 1986 and 1987, a total of $6.4 million in retained earnings will be used. For 1988 through 1991, the Corporation estimates using $700 thousand per year from retained earnings.

The retained earnings balance will be minimal by the end of 1991 unless revenues increase to fund programs.

CORRESPONDENCE

SENATOR ANDREWS: Secretary Dole's response to my letter addressed the reopening of the Welland Canal (November 7) and that, weather permitting, the Seaway would be open as long as necessary to accommodate traffic. I appreciate her response but am still concerned about the point in my letter concerning measures the U.S. is taking to prevent a similar situation. What can be done that isn't being done. Either by the Corporation, the Department or by this or other Congressional Committees?

ANSWER: The issues that must be resolved are what extraordinary repair work on the locks remains to be done and how it will be funded. The Corporation, the Department and Congress must work together to resolve this problem.

SENATOR ANDREWS: Can the Corporation provide the Committee a schedule of the improvements necessary on the Eisenhower and Snell locks including a summary description of projects, estimated costs by project and amount of time necessary to complete each activity?

ANSWER: The Buffalo District Corps of Engineers Reconnaissance Report on Rehabilitation of Eisenhower and Snell Locks included a table which provided estimates for costs and time to complete the rehabilitation work.

The Corporation has requested bids for advanced engineering and design specifications from contractors. The successful bidder will provide a final report that includes proposed schedules and estimated costs. The report will contain more detail than the Corps' report and provide the Corporation with information necessary to complete the lock rehabilitation.

General Construction Schedule and Costs
for the Rehabilitation Alternative
(October 1984 Price Levels)

Work Dates	Repair Items	Case IIIA (1)(2) Construction Cost
Winter 1985-86	Concrete resurfacing at Eisenhower Lock.	$ 4,500,000
Winter 1985-86	Post-Tension D/S Gate, Monoliths at both Locks.	1,400,000
1986	Improved Backfill Drainage at both Locks.	1,000,000
1986	Repairs to Guide Wall Extensions at both Locks.	1,000,000
Winters 1986-87 1987-88 1988-89 1989-90	Post-tensioned Anchors at Eisenhower and Snell Locks.	19,400,000
Total Contractor's Earnings		27,300,000
Contingencies at 25 percent		6,800,000
Total First Costs		34,100,000
Engineering and Design		1,700,000
Supervision and Administration		3,400,000
Total Construction Costs		39,200,000

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(1) All winter work includes the cost of covering, heating, and removing the cover from the appropriate lock chamber(s).

(2) Case IIIA - Maintenance condition assuming "At Rest" earth pressure (K_o) = 0.70

REVENUES

SENATOR ANDREWS: Why do projected revenues fall from the FY 1985 level of $11.1 million to $9.9 million in FY 1986 (a 10.5 percent drop)?

ANSWER: Although a slight increase in tonnage is forecast in FY-1986, total revenues are expected to drop for two reasons. First, interest from reserve funds which are deposited in minority banks will drop by $500,000. This is because the Corporation is drawing down reserves to fund extraordinary structural repair. Also, the Corporation will receive a smaller percent of the shipping tolls in FY-86. The FY-85 shipping tolls were divided according to a 29 percent U.S. and 71 percent Canadian formula for 3 months during FY-1985 before the current 27 percent U.S. and 73 percent Canadian formula took effect.

SENATOR ANDREWS: The Corporation's prepared statement said that industrial cargo, and container and general cargo rose. Was all the decline in revenue attributable to a drop in grain shipments?

ANSWER: In addition to a 30 percent drop in grain tonnage, the Seaway's second largest commodity, iron ore, was off by 24 percent.

SENATOR ANDREWS: In a response to a question asked last year the Corporation provided the Committee its projected revenues for FY 1984 through 1988 versus actual revenues. This estimate ranged from a plus 12 percent over projected (FY 1984) to a minus 20 percent below projected (FY 1982). If revenues for FY 1986 were below the estimated where would the additional funds come from to support operations?

ANSWER: The Corporation would be forced to cut back on operations or use retained earnings to support operations.

SENATOR ANDREWS: Where would funds come from to support FY 1987 operations if revenues were less than projected?

ANSWER: The same situation would be true for FY 1987 as FY 1986. The Corporation would be forced to choose between reducing operations or using retained earnings to support operations.

SENATOR ANDREWS: Please provide for the Committee a listing of projected revenues by source (i.e., bulk, grain, government aid, containers, and general) for FY 1987, and compare this to actuals for FY 1985 and estimated for FY 1986.

ANSWER:	FY 1987 Estimated	FY 1986 Estimated	FY 1985 Actual
		($ in Millions)	
Grain	19.10	18.10	16.37
Iron Ore	8.97	8.83	8.68
Coal	.35	.35	.61
Other Bulk	6.81	6.74	7.35
Gov't Aid	.27	.26	.26
General Cargo	3.70	3.47	4.05
Total Tons	39.20	37.75	37.32
Shipping Tolls	9.8	9.0	9.7
Total Revenue	10.6	9.9	11.0

TOLLS

SENATOR ANDREWS: What percent of total shipping costs through the Seaway are tolls? (for fiscal years 1984, 1985, 1986 and 1987)

ANSWER: There is no one "shipping cost" through the Seaway. Shipping costs vary considerably by commodity and origin and destination. Some representative examples from the Booz Allen Cost Study indicate the following, based on costs, not rates:

Commodity	Route	Tolls per Ton	% of Total Shipping Cost
Wheat	Bismarck, ND to Rotterdam (via Duluth)		1.3%
Corn	Decatur, IL to Algeria (via Chicago)		2.5%
Iron ore	Sept. Isles, Que. to Cleveland (via Cleveland)		16.5%
Steel Coils	Antwerp, Belgium to Detroit (via Detroit)		12.0%
Containers	Felixstowe, U.K. to Milwaukee (via Milwaukee)		1.9%

Fiscal year data is not available without lengthy and costly studies. Most rates are proprietary and require consultant research. The above data is representative for the tolls tariff applicable for FY 84 through FY 86.

SENATOR ANDREWS: Is the Corporation familiar with the study requested by the Appropriations Committee to analyze the economic impact of eliminating tolls at the U.S. locks and replacing them with an ad valorem user fee?

ANSWER: Yes. The study was prepared by the Office of the Secretary of Transportation.

SENATOR ANDREWS: That study (page 4) stated that any reduction in U.S. tolls would be offset by Canadian increases. Do you agree?

ANSWER: Yes. Without the U.S. Seaway Corporation's desire to hold down tolls, the Canadian Authority would have increased tolls on the Welland Canal by 28 percent for the 1986 shipping season. If the Corporation were not a true negotiating partner, the Canadian Authority would not be influenced by the desires of the Corporation and U.S. Seaway users.

SENATOR ANDREWS: Does the Canadian St. Lawrence Seaway Authority have a retained earnings balance like the United States? If so, how much?

ANSWER: The Canadian Seaway Authority now has $37 million in long term investment.

SENATOR ANDREWS: Have the Canadians been using this as a source of funds to offset normal operating expenses (i.e., as it appears the Corporation is doing in FY 1987)?

ANSWER: Yes. The Canadians will expend $22 million on operations by March 31, 1986. The remainder is scheduled to be used by March 31, 1987.

SENATOR ANDREWS: There has been some discussion of toll rebates. What is the Corporation's position on toll rebates? Please elaborate.

ANSWER: The Senate Omnibus Water Bill, S. 1567, contains a provision which establishes a system whereby U.S. Seaway tolls are rebated to the Seaway users. The Seaway Corporation supports the rebate proposal.

SENATOR ANDREWS: The study on ad valorem charges (page 5) said that a general rebate could reduce the American ability to restrain toll increases. Do you agree?

ANSWER: Yes. The Canadian Seaway Authority would be more likely to increase tolls during periods of declining revenues than the U.S. Seaway Corporation. The Corporation believes that it is preferable, where possible, to increase revenues by attracting more cargo to the system.

SENATOR ANDREWS: Please provide for the record an update of the chart provided the Committee last year on tolls. Senate Hearing 99-336, part 1, page 506.

ANSWER: Calendar Year Tonnage

	ACTUAL				ESTIMATED	
	1982	1983	1984	1985	1986	1987
Grain	24.25	24.26	23.51	16.37	18.10	19.10
Coal	1.15	.35	.45	.61	.35	.35
Iron Ore	7.43	10.28	11.40	8.68	8.83	8.97
General	2.84	2.90	4.94	4.80	3.47	3.70
All Other	7.15	7.27	7.15	6.86	7.00	7.08
Total	42.82	45.06	47.45	37.32	37.75	39.20
Shipping Tolls	9.71	10.60	11.97	9.70	9.00	9.80

SENATOR ANDREWS: Please update the tables that appear on pages 507 and 508 of the Senate Hearings 99-336, part 1.

ANSWER:

MONTREAL - LAKE ONTARIO SECTION
SELECTED COMMODITIES
(Cargo Tons)

Table 6

Year	Selected Agricultural Commodities				
	Wheat	Barley	Corn	Soybeans	Rye, Oats and Flaxseed
1959	3,150,390	1,038,242	861,333	199,068	994,231
1960	3,496,220	1,068,257	999,585	514,333	820,427
1961	5,915,8[illegible]3	628,431	1,452,938	485,478	628,956
1962	4,448,639	997,449	1,984,651	695,245	1,272,384
1963	6,607,310	1,008,338	2,405,710	604,663	1,025,376
1964	8,336,916	1,105,602	2,917,700	896,797	857,603
1965	7,844,269	1,199,612	3,324,709	1,218,352	1,170,155
1966	10,152,587	1,149,047	3,073,970	1,115,759	1,337,351
1967	3,469,422	1,266,882	1,881,877	817,395	877,013
1968	5,960,839	541,212	2,877,378	1,194,399	638,530
1969	4,441,733	703,158	3,101,470	1,485,061	635,185
1970	7,421,675	3,611,144	2,616,013	2,252,787	878,708
1971	8,537,731	3,437,814	3,071,460	2,635,720	975,713
1972	9,690,093	4,026,974	3,304,533	1,464,748	1,023,180
1973	10,357,508	3,207,928	3,558,697	1,502,585	1,724,966
1974	7,803,650	1,502,449	2,575,077	918,595	873,241
1975	11,262,229	2,231,873	2,907,968	1,157,397	766,651
1976	8,516,586	2,958,210	4,103,095	1,098,869	864,201
1977	11,488,091	2,857,198	3,840,894	1,378,539	822,402
1978	14,050,681	2,533,010	6,454,239	2,201,723	577,779
1979	10,015,187	3,198,940	7,088,033	1,456,072	662,855
1980	13,743,536	2,075,165	6,518,482	1,295,041	1,054,730
1981	11,922,095	2,949,190	5,075,126	1,542,048	836,476
1982	13,881,092	3,204,032	3,752,675	1,047,779	682,713
1983	15,609,328	3,706,243	2,767,967	300,790	626,191
1984	15,917,622	2,397,722	2,771,791	898,514	306,987
1985	11,502,016	686,598	2,508,872	736,590	375,643

MONTREAL - LAKE ONTARIO SECTION
SELECTED COMMODITIES
(Cargo Tons)

Table 6 (con't)

Selected Mine and Manufactured Commodities						
Coal & Coke	Iron Ore	Stone, Sand & Gravel	Salt	Fuel Oil	Manufactured Iron & Steel	% of Total
1,094,591	5,620,221	11,695	94,393	1,030,688	417,426	59.0
1,008,006	3,914,894	20,597	110,961	1,068,389	734,628	54.8
1,201,340	3,644,391	12,286	126,196	1,001,216	531,991	54.1
1,267,938	5,456,524	10,765	166,030	1,124,869	756,996	58.4
1,089,800	7,401,968	3,476	195,105	1,165,184	874,295	63.9
941,726	11,029,051	7,647	219,304	1,367,898	1,233,107	71.1
1,113,186	11,588,329	15,338	320,126	1,721,317	2,995,840	73.0
1,311,171	14,067,088	17,633	398,094	1,891,905	2,781,194	74.5
1,245,121	14,879,992	17,604	441,992	1,901,558	3,179,539	64.9
1,338,014	16,268,430	36,878	523,097	1,932,069	4,977,778	75.6
912,934	10,568,053	37,213	351,215	2,396,263	4,068,588	66.8
747,115	13,715,305	6,985	420,859	2,919,702	4,031,795	85.6
773,008	12,181,176	41,210	462,775	2,299,114	5,636,261	80.8
784,033	11,370,116	9,834	806,409	2,929,356	5,210,502	80.9
991,312	14,235,151	27,899	819,829	3,432,738	3,958,329	84.7
1,365,728	12,964,996	46,119	811,864	1,813,742	3,270,724	89.3
1,231,411	13,159,321	82,736	779,557	1,770,019	2,236,289	85.2
1,966,384	18,629,321	82,733	752,355	1,360,776	3,026,246	89.9
2,241,973	20,205,283	127,235	783,679	2,015,026	4,972,898	93.5
3,427,038	13,542,178	122,679	746,982	1,887,976	3,588,819	83.8
2,820,401	14,817,154	404,569	833,813	2,326,932	3,107,744	85.4
1,626,942	11,005,222	217,941	782,430	1,563,431	2,084,713	84.9
2,527,798	12,926,853	65,929	1,134,948	1,838,507	2,905,186	86.5
1,834,463	7,430,414	36,264	714,901	1,002,035	2,790,012	85.0
988,212	10,280,210	55,729	878,535	936,121	2,896,137	86.7
1,246,010	11,421,521	124,294	818,931	745,378	3,552,873	84.6
1,409,374	8,679,210	259,048	657,494	558,770	3,603,221	83.0

ARMY CORPS OF ENGINEERS

SENATOR ANDREWS: What is the status of the Corporation's discussions with the Army Corps of Engineers to repair the Eisenhower and Snell Locks?

ANSWER: The Corporation is not discussing the possibility of the Corps repairing Eisenhower and Snell locks.

In February 1985, the Corps completed a reconnaissance report on the rehabilitation needs of the U.S. locks. The study was funded by the Corporation.

Since neither the Corps nor the Seaway Corporation has the funds to undertake a $39.2 million project, discussions center on how to fund the necessary work rather than who will accomplish the work.

SENATOR ANDREWS: Is the Corps willing to undertake the necessary repairs? If not, why not?

ANSWER: The Corps of Engineers would be willing to undertake the project if funds were available.

SENATOR ANDREWS: Is the Corps the best organization to do the repairs or would it be better to contract out the work? Please elaborate.

ANSWER: The Corporation feels that by contracting for the work ourselves, we can control the quality and cost of the work.

The estimated total construction cost for lock rehabilitation in the Corps' February 1985 reconnaissance report was $39.2 million. Of the total cost estimate, $3.4 million was for supervision and administration by the Corps, $1.7 million for engineering and design and $6.8 million for contingencies. Through careful management of the project, these costs can be reduced.

SENATOR ANDREWS: Who would pay for the repairs? (The Corps or the Seaway)?

ANSWER: The funding issue is still being studied.

SENATOR ANDREWS: What is the Corporation's position on the feasibility of raising its borrowing authority to pay for the repairs? (thus incurring debt to be paid over time, through revenues)

ANSWER: Although the desirability of raising the borrowing authority has not been evaluated, increasing the borrowing authority is one option the Corporation could pursue.

SENATOR ANDREWS: What effect would raising the debt have on tolls that would be necessary to pay off the debt in the out years?

ANSWER: In order to repay funds to the Treasury, tolls would be increased. The exact amount of the increase would depend on the amount of debt and the time to repay the Treasury. Under any assumptions of cost and time, the necessary toll increase would be significant.

SEAWAY TRADE MISSION

SENATOR ANDREWS: The Seaway Trade Mission for "1986" took you to southern European countries. For how long were you gone and what cities did you visit?

ANSWER: We departed on February 22 and returned March 8, 1986. We visited Barcelona, Spain; Lisbon, Portugal; Rome, Italy; Genoa, Italy; and Split, Yugoslavia.

SENATOR ANDREWS: How were these countries chosen?
ANSWER: These nations represented the second major competitive area for seaway shipping, following Northern Europe. A survey of industry as well as statistical surveys of market potential were used to determine the locations.

SENATOR ANDREWS: What did you find out from your trip?
ANSWER: In general, the demand for U.S. grain exports remains slack due to European Economic Community production and competition with the exception of soybeans and other oil seeds. U.S. export coal does have a positive outlook, if competitive, for steel and power production throughout the Mediterranean.

SENATOR ANDREWS: Were these countries familiar with Seaway operations?
ANSWER: Yes, very familiar. In fact, the Yugoslavs were the first vessel operators into the Seaway in 1959. The nations we visited have fleets operating into the System for direct and/or third flag movements.

SENATOR ANDREWS: What were their impressions of the Seaway regarding cost, dependability, time of transit, length of shipping season?
ANSWER: Seaway operations were considered favorable with the one exception of container shipping competition. The limited season and faster transit via tidewater ports was an acknowledged concern impacting on the Seaway route.

SENATOR ANDREWS: Were the impressions of these countries similar to, or different from those of the countries visited last year? (England, France, Belgium, Germany and the Netherlands)
ANSWER: Generally, the impressions were similar. Both trade missions resulted in an affirmation of the need to educate potential overseas users of System capabilities and our genuine interest in obtaining their business. Our interest was always reciprocated.

SENATOR ANDREWS: What additional traffic was generated by last year's visit (or other positive accomplishments)? Please elaborate.
ANSWER: We have conducted follow up contacts with industry representatives from last year's visit and several U.S. and Canadian participants have indicated traffic generated by individual ports included steel, machinery and miscellaneous project cargoes. We have also noted an increase in ongoing inquiries for Seaway information from abroad which confirms the value of establishing contacts and follow up after trade mission visits.

SENATOR ANDREWS: Southern Europe ranks third in world trade with the midwest. What types of products (exports and imports) make up this traffic?
ANSWER: The major commodities traded between the U.S. midwest and Southern Europe are: U.S. exports of wheat, soybeans,

corn, tobacco, cotton, forest products, hides and skins, machinery, chemicals, transport equipment, petroleum products, and coal; and U.S. imports of olives and olive oil, processed vegetables and fruits, wines, textiles, furniture, finished leather goods, clothing, cork manufactures, seafood products, machinery, foodstuffs, transport equipment, canned meats, and wood products.

OFFICE OF INSPECTOR GENERAL (OIG)

SENATOR ANDREWS: The Inspector General of DOT in a report dated September 18, 1985, criticized the Corporation for spending too much on entertainment, in transporting guests and workers, and on a "seasonal or recreational facility." What is the status of that report?

ANSWER: The Corporation's management has responded to the Inspector General's (OIG) report and the report is now final.

SENATOR ANDREWS: Have the OIG concerns been addressed? How? If not, why not? Please elaborate.

ANSWER: The recommendations in the Inspector General's report have been addressed by the Corporation and incorporated in the final report.

The following OIG recommendations and management responses are taken directly from the final report.

Cape Vincent Facility - Recommendations: We recommend that the SLSDC document the future utilization of the facility for official use and recreation. If utilization of the facility is determined to be minimal, then action should be initiated to return the property to the USCG, the property declared excess, and sale by General Services Administration (GSA) including a leaseback provision providing access rights to the dock facility for the Seaway Corporation.

Management Response: The SLSDC stated that records regarding the official use of the Cape Vincent Property were being maintained. The SLSDC disagreed that the $120,000 spent on the facility was not justified or that its use would be primarily recreational. The SLSDC estimated annual savings of $11,125 and recovery of the project cost within 11 years. The SLSDC stated that in line with the ongoing review of Corporation property, consideration will be given to all options appropriate to the Upriver Operations Base.

The SLSDC also stated that the report was inaccurate in reporting that the Administrator recommended renovation of the facility as a "seasonal lodging" and that renovations could have been accomplished for $9,500. Furthermore, the SLSDC suggested that any consideration of excessing the property be directed to the property's titleholders (the U.S. Coast Guard).

Promotional Expenditures - Recommendations: We recommend that the Administrator, SLSDC:

1. Comply with the requirements of Section 3679 of the Revised Statutes of 31 U.S.C. 1341, the Anti-Deficiency Act, and report this violation to the President and the Congress.
2. Limit entertainment expenses to those within the definition of official R&R expenses and not exceed the $3,000 statutory limitation on such expenditures.

Management Response: The SLSDC stated that in their opinion only $1,344 of the expenditures are R&R related. As a result they do not intend to file an anti-deficiency report. The Corporation considers many of the R&R costs questioned in our audit to be for trade and traffic development of the Seaway system and have expanded commerce.

Purchase of Nonpersonal Services - Recommendations: We recommend that:

1. The Administrator, SLSDC, initiate and make all procurements through the Office of Finance and Administration.

2. The Comptroller, Office of Finance and Administration, ensure that all procurements are made in accordance with the SLSDC and DOT procurement regulations and the FARs.

Management Response: The SLSDC stated that it is subject to FARs and has followed them in its procurement.

Use of Air Charter Services - Recommendations: We believe that expenditures for air charter services have resulted in unjustified excessive travel costs by the SLSDC which were not incurred in accordance with applicable DOT travel regulations. We estimate that about $12,000 of unnecessary costs were incurred for travel as a result of nine charter flights which involved carrying SLSDC personnel to meetings, award ceremonies, or other similar functions and cost over $29,000.

We recommend that the Administrator, SLSDC, limit the use of air charter service to that which can be justified in accordance with the DOT travel regulations.

Management Response: The SLSDC did not agree that the use of charter flights resulted in unnecessary costs. The SLSDC noted that certain charter flights during the year did not relate to the transportation of SLSDC employees. Rather, they were required to provide ice surveillance of the Seaway or to deliver needed equipment and were justified by these requirements.

The Corporation is no longer using commercial air charter service and in the future will only use charter service in accordance with the DOT travel regulations.

Entertainment Expenses - Recommendations: We recommend that the SLSDC limit entertainment expenses to those categories defined in DOT Order 2770.1C and refrain from paying for meals and entertainment at employee award ceremonies and similar functions.

Management Response: The SLSDC stated that the $2,500 expended for the employee award brunch on December 20, 1984 is considered cost-effective.

SENATOR ANDREWS: What is the Corporation's response to the IG charge that the renovation costs at Cape Vincent are not justified?

ANSWER: The Corporation believes that the renovation costs for the Upriver operations base at Cape Vincent are fully justified. The facility will be used for the following operational purposes: Dock facility for Corporation tugs and workboats, maintenance of navigation aids, oil spill response site, alternate lakes traffic control center, vessel speed surveillance site, government-furnished accommodations and staging area for other federal agencies.

The renovation is also justified on a cost basis. The full project cost will be recovered in less than 11 years.

SENATOR ANDREWS: Is this facility going to be used as a recreational facility for employees?

ANSWER: The facility can be used by employees and their families when not in use for official business.

SENATOR ANDREWS: The IG also charged that the Corporation had spent too much on certain receptions and had charged expenses of others to the wrong account. What is the Corporation's response to these charges? Please elaborate.

ANSWER: The Corporation disagrees with the Inspector General's finding. Statutory authority for the Corporation to expend funds to a trade and traffic development account is contained in the Saint Lawrence Seaway Act, Section 4(9), which states the Corporation "shall determine the character and necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed and paid."

The Corporation believes that activities designed to promote trade and traffic increases on the Seaway should not be charged to an entertainment or R&R account.

SENATOR ANDREWS: Have these differences been resolved? Please explain.

ANSWER: No. The issue whether there was an Anti-deficiency Act violation is under consideration in the Department.

SENATOR ANDREWS: What did the Corporation spend on promotional activities in fiscal year 1985, estimated for 1986 and projected for 1987? Please provide amounts by types of promotional activity.

ANSWER: The Corporation spent $737,000 in 1985 on trade and traffic development. The largest expenditure was for personnel, amounting to approximately $340,000. The following is a list of 1985 promotional activities: Trade Mission - $52,000; PIERS - $30,000; seminars - $15,000; publications - $25,000. The 1986 budget estimate is $920,000 and the 1987 estimate is $900,000.

SENATOR ANDREWS: What did the Corporation spend on reception and representation activities in fiscal year 1985, estimated for 1986 and projected for 1987? Please provide amounts by types of activity.

ANSWER: In FY-1985, the Corporation expended $440 on foreign government officials and $1,892 on activities involving potential shippers, banking concerns, port officials and for orientation tours of Seaway Corporation facilities.

In FY-1986 and FY-1987, the Corporation has budgeted $1,000 for foreign government officials, $1,000 for luncheons and other businessmen's activities and $1,000 for tours of the Seaway Corporation facilities.

GENERAL ACCOUNTING OFFICE (GAO)

SENATOR ANDREWS: The GAO in a report on its inspection of the Corporation's books for 1983 and 1984 reported that some financial entries were without proper documentation or without any documentation. What has the Corporation done in response to these charges? Please elaborate.

ANSWER: The Corporation has implemented a number of new procedures to strengthen our financial management and controls. In addition, the Corporation is developing formal documentation of all accounting procedures and implementing new controls on disbursement, cash receipts and journal entries. The Corporation has implemented new procedures which will not only strengthen internal controls but enable the Corporation to plan, control and contain expenditures.

In addition to strengthening our current system, the Corporation is developing an automated system for budgeting and control. In 1985, the Corporation contracted with Clarkson College School of Business on how to improve and automate our budget and control system. As a result of the Clarkson study, a new automated budgeting system is being developed for implementation. The Corporation has detailed a senior official to this special project to insure the new budget control system is fully implemented by the end of 1986. The Corporation has also hired a new employee with degrees in accounting and management science to assist in the development and implementation of the new system.

SENATOR ANDREWS: Has the Corporation corrected the "inadequate supervision and training" observation? Please elaborate.

ANSWER: The same accounting personnel were following the same procedures as in the prior years in which no objections were raised.

The Corporation has provided accounting personnel with formal training to improve their productivity.

GRAMM-RUDMAN-HOLLINGS

SENATOR ANDREWS: Describe the effects of the 4.3 percent sequestration cut imposed on the fiscal year 1986 limitation on operating expenses.

ANSWER: Gramm-Rudman-Hollings sequestration cut for FY-1986 amounted to $641,000. The Corporation's operations were not significantly hampered by the cut.

SENATOR ANDREWS: In what activities or areas were the Gramm-Rudman-Hollings cuts made?

ANSWER: The cuts were imposed in administrative expenses and operations expenses.

SENATOR ANDREWS: Were there any other effects of this reduction that were not necessarily intended (e.g., on toll collections, revenues)?

ANSWER: The unintended effect of Gramm-Rudman-Hollings on the Seaway Corporation is that we cannot spend funds which have been collected from Seaway users to operate and maintain the Seaway.

QUESTIONS SUBMITTED BY SENATOR CHILES

TOLLS

SENATOR CHILES: I understand that the Canadians plan to implement a 15% toll increase at the Welland locks for the next shipping season and this will represent a 6% system wide increase. Tolls at the American locks have been frozen since 1983 and no increases are proposed for the next shipping season.

Do you propose to raise tolls for the 1987 season which starts April 1987?

ANSWER: The level of tolls on the Seaway system is the subject of annual negotiatins between the Seaway Corporation and the Canadian Authority. Until the negotiations take place, the level of tolls for 1987 cannot be predicted.

REVENUE SHARING WITH THE CANADIANS

SENATOR CHILES: At last summer's negotiating session with the Canadians, it was agreed that the Canadians would receive 73% of all toll revenues for the shipping season which starts next April, as compared to 71% which they received for the season which just ended.

Why did we agree to let the Canadians have a bigger slice of the total revenues?

ANSWER: The reason that the Seaway Corporation agreed to share two percent of the Montreal to Lake Ontario portion of the tolls is that the Canadian Authority is projecting a $20 million operating deficit for 1986. In light of the deficit projection, the Authority proposed a 28 percent increase on the Welland Canal. By allowing the Authority to keep the additional two percent, the Corporation was able to hold the increase to 15 percent at the Welland.

DECLINING TRAFFIC

SENATOR CHILES: 1985 tonnage of 37.3 million tons is down 21.4% from 1984 and 1986, and 1987 projected tonnage increases by only 3% and 5% respectively. Why is tonnage off so significantly?

ANSWER: The reason that overall tonnage was off in 1985 was a dramatic decline in both grain and iron ore movements. Grain shipments account for nearly half of all traffic that moves through the Seaway. In 1984, 23.5 million tons of grain moved on the Seaway, while in 1985, only 16.4 million tons transited the system, a decrease of 30 percent.

MARKETING EFFORT

SENATOR CHILES: Mr. Emery, I understand that you have established a trade and traffic development program in an effort to increase the overall use of the Seaway. I understand that the IG has questioned your authority to use toll revenues for promotion purposes. What exists specifically in your statutory authority permitting promotional activities?

ANSWER: The enabling legislation that created the Saint Lawrence Seaway Development Corporation is Public Law 348, signed on May 14, 1954. The following language is contained in Sec. 4, Corporate Powers.

"(a) For the purpose of carrying out its functions under this chapter, the Corporation (a) shall determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed and paid, subject to provisions of law specifically applicable to Government corporations."

THE SENATE OMNIBUS WATER BILL - S. 1567

SENATOR CHILES: The Water Bill, as reported by Public Works last summer and reported by the Finance Committee January 8, 1986, establishes a harbor maintenance trust fund into which seaway tolls are deposited. The bill then requires the tolls to be refunded to Seaway users and would establish the Seaway as an appropriated agency.

Mr. Emery, do you support the provisions of the Water Bill that relate to the Seaway?

ANSWER: Yes. The Administration is supporting S. 1567. However, I would point out that in September the Administration submitted a package of amendments to the Senate Finance Committee containing language that would maintain the Seaway Corporation as a user-fee funded organization.

CAPITAL IMPROVEMENTS

SENATOR CHILES: The Army Corps of Engineers issued a report last February that estimated the need for $39.2 million to be spent on Seaway maintenance. I understand that you are spending $2.5 million in 1986 and $1.0 million in 1987 on the Seaway maintenance programs as recommended by the Army Corps. When do you expect to finish this program?

ANSWER: The extraordinary structural repair work that is now being completed represents approximately one-half of the concrete repair work recommended in a reconnaissance report prepared by the Buffalo District of the Corps of Engineers. Before a schedule can be established for completing the project, funding options must be analyzed and detailed engineering reports must be completed.

SENATOR CHILES: Can it be finished within toll revenues or will you be seeking a special appropriation?

ANSWER: The rehabilitation of Eisenhower and Snell locks cannot be completed by the Seaway Corporation with retained earnings and forecasted toll revenues. The various funding options available to the Corporation must be evaluated before a final funding decision can be made.

PANAMA CANAL COMMISSION

STATEMENTS OF:

WILLIAM R. GIANELLI, SPECIAL ASSISTANT TO SECRETARY OF DEFENSE FOR PANAMA CANAL AFFAIRS AND CHAIRMAN OF THE BOARD OF DIRECTORS OF THE PANAMA CANAL COMMISSION

DENNIS P. McAULIFFE, ADMINISTRATOR, PANAMA CANAL COMMISSION

ACCOMPANIED BY:

RICHARD O. BURGOON, CHIEF FINANCIAL OFFICER

MICHAEL RHODE, JR., SECRETARY

INTRODUCTION OF WITNESSES

Senator D'AMATO. Our next witnesses will be William—gentlemen, as you leave, please hold it down to a dull roar.

Our next witnesses are William R. Gianelli, Special Assistant to the Secretary of Defense for Panama Canal Affairs and Chairman of the Board of Directors of the Panama Canal Commission; Dennis P. McAuliffe, Administrator of the Panama Canal Commission; accompanied by Mr. Richard Burgoon, Chief Financial Officer; and Michael Rhode, Jr., Secretary.

We appreciate your forgoing the reading of your statements. It is good to see you. I have not been down to the canal in a while, and I look forward after this November to have the opportunity and the occasion to go down to see you. I think you are doing a terrific job.

PREPARED STATEMENTS

We have an opening statement from Senator Chiles that we want to put in the record at this point along with the submitted statements of Mr. Gianelli and Mr. McAuliffe.

[The statements follow:]

STATEMENT OF SENATOR LAWTON CHILES

I am pleased to welcome the Chairman of the Panama Canal Commission to the committee's hearing today and I look forward to hearing your testimony.

The canal is a key link in the world's commerce. We need to make sure that it can operate in an effective and competitive fashion and that you have the resources to keep shipping flowing.

It is, of course, important that the canal operates on the basis of the fees and revenues and does not contribute to the deficit.

As time moves ahead toward the day when the canal is turned over to Panama, we will be interested in your plans for these transition years.

Statement of William R. Gianelli

Mr. Chairman, members of the subcommittee, I am William R. Gianelli, Special Assistant to Secretary of Defense for Panama Canal affairs and Chairman of the Board of the Panama Canal Commission. I am pleased to appear before you today to request appropriation for the Fiscal Year 1987 budget programs of the Panama Canal Commission, the agency responsible for the operation of the Panama Canal. Participating with me in this hearing are Dennis P. McAuliffe, the Administrator of the Commission; Michael Rhode, Secretary of the Commission; and Richard Burgoon, Chief Financial Officer.

At the outset, Mr. Chairman, I want to thank you and the other members of the Subcommittee for the assistance received over the years with passage of important legislation affecting the management and operation of the waterway, such as the marine accident legislation this past fiscal year.

Mr. Chairman, I want to affirm that the administration has approved the budget submission of the Commission and that it is in accord with the program of the President. We believe that enactment of this budget request will allow the Canal to continue to be operated efficiently in providing service to world commerce.

APPROPRIATION REQUEST

We are requesting an appropriation for fiscal year 1987 of $437.3 million. Permit me to point out that these funds are to be appropriated from the General Fund of the treasury rather than the Special Fund. This change will allow the Commission to operate in a manner similar to any other U.S. Government agency. You will recall that in order to operate under the Special Fund arrangement the Commission was required to have on hand substantial funding reserves, including the interest deposited in our Special Fund and the $85 million remaining from the first year general fund appropriation. These funding reserves through the years have been the subject of considerable debate and controversy. The elimination of the Panama Canal Commission Fund, with receipts going into and appropriations coming from the General Fund, should place the controversy on this issue to rest. The Commission, however, WILL DEPOSIT RECEIPTS IN A PROPRIETARY RECEIPT ACCOUNT IN TREASURY. THUS, THE COMMISSION'S EXPENSES WILL STILL BE OFFSET BY RECEIPTS.

IN CONVERTING THE FUNDING SOURCE OF THE COMMISSION TO THE GENERAL FUND, NONE OF THE BASIC FINANCIAL PRINCIPLES GOVERNING THE CANAL OPERATION WILL CHANGE. THE CANAL MUST CONTINUE TO OPERATE AT NO COST TO THE U.S. TAXPAYER. IT WILL STILL BE REQUIRED TO SET TOLL RATES TO RECOVER ALL THE COSTS OF OPERATING AND MAINTAINING THE CANAL AND APPROPRIATIONS WILL STILL BE LIMITED TO THE LEVEL OF REVENUE RESOURCES. HOWEVER, THE COMMISSION WILL NOW BE ABLE TO OPERATE ON THE FIRST DAY OF THE FISCAL YEAR WITHOUT REQUIRING HIGHER BALANCES ON HAND.

BOARD ACTIVITIES

DESPITE THE BI-NATIONAL COMPOSITION OF THE COMMISSION'S BOARD, WE HAVE BEEN ENJOYING A SPIRIT OF COOPERATION WHICH, I MIGHT ADD, HAS INCREASED STEADILY. WE HAVE DEALT WITH A NUMBER OF SIGNIFICANT ISSUES OVER THE YEARS, AND ALTHOUGH WE HAVE DIFFERENCES, I BELIEVE BOTH SIDES HAVE THE BEST INTERESTS OF THE CANAL AS THEIR PRIMARY OBJECTIVE.

ONE OF THE SIGNIFICANT ITEMS THE BOARD HAS RECENTLY UNDERTAKEN IS A STUDY TO DETERMINE THE FEASIBILITY OF WIDENING THE NARROWEST PORTION OF THE CANAL. THIS STUDY IS ON-GOING AND INVOLVES EXAMINING THE TECHNICAL, OPERATIONAL, ENVIRONMENTAL, ECONOMIC AND FINANCIAL RAMIFICATIONS OF WIDENING GAILLARD CUT TO PERMIT UNINTERRUPTED TWO-WAY TRAFFIC OF LARGE VESSELS. CURRENT CHANNEL CONFIGURATIONS IN THIS AREA RESTRICT WIDE-BEAM VESSELS TO ONE-WAY PASSAGE, LIMITING CANAL CAPACITY. NO COMMITMENTS TO A CUT-WIDENING PROJECT HAVE BEEN MADE; RATHER, THE COMMISSION IS SIMPLY PURSUING AN OVERALL EVALUATION OF THE FEASIBILITY OF THE PROJECT. ONCE THE STUDY HAS BEEN COMPLETED, IT WILL BE PRESENTED TO THE COMMISSION'S BOARD FOR ITS REVIEW AND CONSIDERATION.

PAYMENTS TO PANAMA

In the current budget, our request projects that the net tonnage rate payable to Panama will increase from thirty-one cents per Panama Canal net ton to an estimated thirty-three cents effective October l986. The net tonnage payment included in our 1987 appropriations request is based on this estimated revised rate. An adjustment in the rate is mandated by Article XIII, paragraph 4.a. of the Panama Canal Treaty, which provides for revision of the rate every two years based on inflation. The first adjustment took place as prescribed in 1985, five years after the entry into force of the treaty; and this constitutes the second adjustment. Inflation is be measured by the changes in the United States wholesale price index for total manufactured goods.

FY 1986 SUPPLEMENTAL REQUEST

Mr. Chairman, the Commission is requesting supplemental financing in fiscal year 1986 amounting to $25.6 million. Mr. McAuliffe will also comment on this request but, I want to touch upon the significant item included in this request--$24.5 million associated with the recent change in the Commission's treatment of marine accidents.

On December 23, 1985, the President signed the Panama Canal Amendments Act of 1985 (Public Law 99-209) which modifies the responsibility of the Panama Canal Commission for damages caused to vessels or their cargo, crew, or passengers while passing through the Panama Canal. With this change, the Commission can now resolve claims for vessels damaged outside the locks in the same manner as those vessels damaged inside the locks.

In anticipation of this eventuality, the Commission has been reserving revenues through the years to cover liabilities for these accidents. Accordingly, resources are available in the Panama Canal Commission Fund to settle such claims and approval of the request of $24.5 million will allow the

COMMISSION TO DO SO. I WOULD LIKE TO REITERATE OUR APPRECIATION TO THE COMMMITTEE AND ITS MEMBERS FOR THEIR INTEREST AND PERSEVERANCE IN MAKING THE MARINE ACCIDENT CHANGE POSSIBLE. THE CHANGES EMBODIED IN THE NEW LAW WILL ENABLE THE COMMISSION TO BE MORE RESPONSIVE TO OUR CUSTOMERS, THE SHIPPING COMMUNITY.

CONCLUSION

IN CLOSING, MR. CHAIRMAN, THE BUDGET PROGRAMS WE HAVE SUBMITTED FOR YOUR APPROVAL WILL ENABLE US TO CONTINUE TO FULFILL OUR MISSION TO OPERATE THE PANAMA CANAL IN A SAFE, EFFICIENT MANNER AND AT NO COST TO THE U.S. TAXPAYER. THE REQUESTED CAPITAL INVESTMENT IS ESSENTIAL TO OUR MODERNIZATION EFFORTS AS WE SEEK TO ENSURE THAT THE CANAL IS A VIABLE, COST-EFFECTIVE TRANSPORTATION ALTERNATIVE FOR MARITIME TRADE. WITH YOUR HELP, WE WILL CONTINUE OUR EFFORTS TO PROVIDE RELIABLE SERVICE TO WORLD SHIPPING.

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED REMARKS. I RECOMMEND THAT MR. MCAULIFFE BE ALLOWED TO PRESENT HIS STATEMENT, AND THEN WE BOTH WILL BE AVAILABLE FOR QUESTIONS.

STATEMENT OF DENNIS P. MCAULIFFE

INTRODUCTION

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I AM DENNIS PHILIP MCAULIFFE, ADMINISTRATOR OF THE PANAMA CANAL COMMISSION. I AM PLEASED TO APPEAR BEFORE YOU TODAY WITH THE HONORABLE WILLIAM R. GIANELLI TO REQUEST APPROPRIATION FOR THE FISCAL YEAR 1987 BUDGET PROGRAMS OF THE PANAMA CANAL COMMISSION, THE AGENCY RESPONSIBLE FOR THE OPERATION OF THE PANAMA CANAL.

I JOIN WITH MR. GIANELLI IN EXPRESSING APPRECIATION FOR THE ASSISTANCE RECEIVED FROM THIS COMMITTEE AND ITS MEMBERS ON BEHALF OF THE PANAMA CANAL.

GENERAL OUTLOOK

OVER THE LAST SIX YEARS, THE IMPACT OF THE TREATY UPON THE PANAMA CANAL ORGANIZATION HAS BEEN ENORMOUS. DURING THIS PERIOD, THE COMMISSION HAS WITNESSED SOME SWEEPING GOVERNMENTAL, ADMINISTRATIVE AND ECONOMIC EVENTS--MORE THAN MOST ORGANIZATIONS WILL EVER EXPERIENCE IN THEIR LIFETIME. TO MENTION A FEW, WE HAVE SEEN A CHANGE IN RESPONSIBILITY FROM ONE COUNTRY TO ANOTHER FOR THE CIVIL GOVERNMENT OF THE AREA ENCOMPASSING THE CANAL; A COMPLETE REORGANIZATION OF THE CANAL OPERATING AGENCY; AND A DIVERSION OF A SIGNIFICANT SEGMENT OF CANAL TRAFFIC TO ANOTHER TRANSPORTATION ALTERNATIVE. DESPITE THE ENORMITY OF THESE CHANGES ON OUR PEOPLE AND THE ORGANIZATION, I AM PLEASED TO REPORT THAT THE CANAL IS FUNCTIONING WELL, FROM BOTH OPERATIONAL AND FINANCIAL POINTS OF VIEW. I AM OPTIMISTIC ABOUT THE OPERATION OF THE CANAL FOR THE FUTURE.

FY 1985 FINANCIAL RESULTS

THE FINANCIAL OPERATING RESULTS FOR 1985 REFLECT ESSENTIALLY A BREAKEVEN OPERATION WITH TOTAL REVENUES OF $406.7 MILLIONS EXCEEDING EXPENSES BY ONLY $1.1 MILLION. THIS MODEST OPERATING PROFIT WILL BE PAYABLE TO PANAMA UNDER TREATY PROVISIONS AND IS REQUESTED IN OUR BUDGET SUBMISSION AS A 1986 SUPPLEMENTAL.

A total of $72.8 million in treaty-related payments was made to the Republic of Panama in fiscal year 1985. These included a net tonnage payment of $52.8 million, a fixed annuity payment of $10.0 million, and a public services reimbursement of $10.0 million. The tonnage payment was calculated on thirty-one cents per Panama Canal net ton transited. Since inception in 1979, the Panama Canal Commission has operated, maintained and improved the Canal without cost to the U.S. taxpayer, covering all expenditures with revenues. Direct treaty payments have been made to the Republic of Panama in the aggregate of some $446.1 million over those six years, all covered with revenues also. Included in that amount are $6.9 million of contingent profit payments, which are minimal considering that revenues and expenditures over that same period of time was at the $2.4 billion level for each.

OUTLOOK FOR FUTURE

In contrast to the low traffic levels experienced in 1985, traffic levels during the first few months of the present fiscal year have been strong. It is possible that the budgeted figure of $311 million may be exceeded. If current traffic trends continue, tolls income in 1987 could exceed the $312 million level anticipated in the President's Budget.

This traffic performance reflects a number of factors. Transits by automobile carriers have been on the upswing following abnormally low levels in the closing months of 1985. This development, combined with a strong performance of the grain, petroleum and petroleum products trades, which move on large PANAMAX size vessels, principally accounted for the sharp tolls revenue increase experienced thus far. Grain and crude oil shipments have reached their highest levels in two years. An increase in U.S. grain exports through the Canal accounted for the improvement in the grain movement, with oil shipments from the west coast of South America accounting for most of the increase in the crude oil trade.

The growth in 1987 assumes that container trade will continue strong, grain

SHIPMENTS WILL INCREASE MODERATELY, AND MOST OTHER TRADES WILL CONTINUE TO IMPROVE. WE WILL BE MONITORING TRAFFIC TRENDS VERY CLOSELY AND, IF THE HIGH LEVELS ARE SUSTAINED, IT MAY BE NECESSARY FOR THE COMMISSION TO SEEK ADDITIONAL BUDGET AUTHORITY IN 1987 TO HANDLE THIS INCREASED WORKLOAD DEMAND.

BEYOND THE BUDGET YEAR, WE FORESEE NO MAJOR FACTORS WHICH COULD RESULT IN SIGNIFICANT INCREASES IN CANAL TRAFFIC. ACCORDINGLY, THE OUTLOOK IS FOR MODEST TRAFFIC GROWTH OVER THE CURRENT LEVELS EXPECTED IN 1987.

IMPORTANT TREATY EVENTS

THE TRANSFER OF EXCESS HOUSING UNITS TO THE REPUBLIC OF PANAMA CONTINUES TO BE A TREATY AREA RECEIVING SIGNIFICANT ATTENTION. YOU WILL RECALL EXCESS HOUSING FOR THE COMMISSION PRINCIPALLY RESULTS FROM THE FACT THAT, IN ACCORDANCE WITH THE TREATY, THE COMMISSION CAN NO LONGER PROVIDE HOUSING FOR EDUCATIONAL AND MEDICAL PERSONNEL OF THE DEPARTMENT OF DEFENSE AGENCIES IN THE CANAL AREA, AS HAD BEEN PERMITTED DURING THE FIRST FIVE YEARS OF THE TREATY. TO DATE, THE COMMISSION HAS TRANSFERRED 1,348 HOUSING UNITS TO THE REPUBLIC OF PANAMA WITH ANOTHER 276 UNITS SCHEDULED FOR TRANSFER IN 1986. THE TRANSFER OF HOUSING UNITS IS OFTEN ACCOMPLISHED ROUTINELY WITHOUT ANY DIFFICULTY. HOWEVER, LAST SEPTEMBER, THE IDENTIFICATION FOR TRANSFER OF HOUSING ON THE ATLANTIC SIDE, WHERE THERE IS A CRITICAL HOUSING SHORTAGE IN THE CITY OF COLON, RESULTED IN AN INCURSION INTO AND THE ILLEGAL OCCUPANCY BY SQUATTERS OF A NUMBER OF VACATED HOUSING UNITS. THESE PROBLEMS ARE BEING RESOLVED AND IT IS EXPECTED THAT TRANSFER OF THE 276 UNITS WILL BE COMPLETED IN THE NEAR FUTURE.

CHANGING COMPOSITION OF WORK FORCE

IN KEEPING WITH THE TREATY OBJECTIVE OF INCREASING PANAMANIAN PARTICIPATION IN THE CANAL'S OPERATION, THE COMMISSION HAS ACTIVELY PURSUED EMPLOYMENT AND TRAINING PROGRAMS WHICH ARE DESIGNED TO HIRE, TRAIN AND PLACE QUALIFIED PANAMANIAN CITIZENS THROUGHOUT THE ORGANIZATION. AS A RESULT, WE ARE SEEING CHANGES IN THE COMPOSITION OF THE COMMISSION'S WORK FORCE. FOR

EXAMPLE, ON OCTOBER 1, 1979 (THE EFFECTIVE DAY OF THE NEW TREATY), THE PANAMANIAN SEGMENT ACCOUNTED FOR SOME 69% OF THE TOTAL PERMANENT WORK FORCE. BY OCTOBER 1985, THAT SEGMENT HAD INCREASED TO 80%. THE COMMISSION'S PERMANENT WORK FORCE TOTALS AROUND 7,500 (8,300 FULL TIME WORK YEARS). OF INTEREST ALSO IS THE FACT THAT, AT THE HIGHER MANAGERIAL AND TECHNICAL LEVELS, WE HAVE SEEN NEARLY A 70% INCREASE OVER THE 1979 LEVELS.

THE COMMISSION'S TRAINING PROGRAMS HAVE PLAYED AN IMPORTANT PART IN THE CHANGING MIX OF THE COMMISSION'S WORKFORCE. WE HAVE INTENSIFIED OUR LOCAL RECRUITMENT EFFORTS AND HAVE DEVELOPED SPECIALIZED TRAINING AND DEVELOPMENT PROGRAMS. THESE INCLUDE INCREASED TRAINING FOR PANAMANIAN EMPLOYEES WITH POTENTIAL FOR SUPERVISORY AND MANAGERIAL POSITIONS; CAREER COUNSELING TO ASSIST PANAMANIAN EMPLOYEES IN THE ADVANCEMENT OF THEIR CAREERS; AND THE EXPANSION OF INDUSTRIAL, MARITIME, AND OTHER HIGHLY SPECIALIZED TRAINING PROGRAMS. AS A SINGULAR POINT OF INTEREST, COMMISSION MANAGEMENT HAS PLAYED A DIRECT PART IN SENDING 42 PANAMANIAN STUDENTS TO MERCHANT MARINE ACADEMIES IN THE UNITED STATES. WE ARE CONFIDENT THESE PROGRAMS WILL SERVE TO ASSURE THE AVAILABILITY OF QUALIFIED PERSONNEL TO OPERATE THE PANAMA CANAL IN THE FUTURE.

APPROPRIATION REQUEST

AS INDICATED BY MR. GIANELLI, THE APPROPRIATION REQUEST FOR THE PANAMA CANAL COMMISSION IN FISCAL YEAR 1987 TOTALS $437.3 MILLION. THIS INCLUDES $409.8 MILLION FOR OPERATIONAL REQUIREMENTS DURING THE YEAR AND $27.5 MILLION FOR CAPITAL EQUIPMENT AND CONSTRUCTION, TO REMAIN AVAILABLE UNTIL EXPENDED.

OPERATING EXPENSES

THE APPROPRIATION REQUESTED FOR OPERATING EXPENSES IN FISCAL YEAR 1987 IS $409.8 MILLION. THE MAJOR COST COMPONENTS OF THIS TOTAL INCLUDE $194.7 MILLION FOR PERSONNEL COMPENSATION, $77.8 MILLION FOR TREATY PAYMENTS TO PANAMA, AND $56.2 MILLION FOR SUPPLIES AND MATERIALS.

THE APPROPRIATION REQUESTED FOR 1987 REPRESENTS AN INCREASE OF 3 PERCENT OVER THE AMOUNT APPROPRIATED FOR OPERATIONS IN 1986. MOST OF THIS INCREASE REFLECTS THE EFFECTS OF COST ESCALATIONS ON OUR OPERATIONS.

CAPITAL PROGRAM

THE COMMISSION'S CAPITAL PROGRAM REFLECTS $27.5 MILLION IN BUDGET AUTHORITY FOR 1987 DIRECTED PRIMARILY AT TRANSIT-RELATED IMPROVEMENTS. OF THE TOTAL CAPITAL PROGRAM, AN AMOUNT OF $18.0 MILLION IS DEDICATED TO TRANSIT PROJECTS. THESE PROJECTS ARE DESIGNED TO AUGMENT PROGRAMS ALREADY UNDERWAY TO ENSURE THE CONTINUED SAFE, EFFICIENT OPERATION OF THE WATERWAY.

SIGNIFICANT PROJECTS IN THE 1987 PROGRAM INCLUDE THE PURCHASE OF A TUGBOAT, THE REPLACEMENT OF TWO 25-TON DIESEL CRANES AT THE LOCKS, REPLACEMENT AND ADDITION OF TRANSIT EQUIPMENT, REPLACEMENT OF LOCKS ELECTRICAL TRANSFORMERS CONTAINING THE TOXIC CHEMICAL PCB, AND AUGMENTATION OF FIRE PROTECTION SYSTEMS AT THE LOCKS.

FY 1986 SUPPLEMENTAL REQUESTS

MR. GIANELLI HAS ALREADY TOUCHED UPON THE COMMISSION'S SUPPLEMENTAL REQUEST OF $25.6 MILLION. THE MAJOR PORTION OF THIS REQUEST, SOME $24.5 MILLION, IS RELATED TO THE RECENT CHANGE IN THE LAW FOR HANDLING MARINE ACCIDENTS AUTHORIZED UNDER PUBLIC LAW 99-209. THE SECOND ITEM INCLUDED IN THE REQUEST IS $1.1 MILLION WHICH WILL ALLOW THE COMMISSION TO PAY THE GOVERNMENT OF PANAMA THE OBLIGATIONS ARISING FROM THE 1985 OPERATING PROFIT. THIS IS DUE THE REPUBLIC OF PANAMA PURSUANT TO PARAGRAPH 4(C) ARTICLE XIII OF THE PANAMA CANAL TREATY OF 1977. WHILE THE PAYMENT AMOUNT IS SUBJECT TO CHANGE, INASMUCH AS THE GENERAL ACCOUNTING OFFICE HAS YET TO COMPLETE ITS FINANCIAL AUDIT, WE DO NOT EXPECT THE AMOUNT TO CHANGE SIGNIFICANTLY.

RESOURCES ARE AVAILABLE IN THE PANAMA CANAL COMMISSION FUND TO COVER THESE TWO SUPPLEMENTAL REQUIREMENTS.

CONCLUSION

IN CONCLUSION, THE PANAMA CANAL COMMISSION IS COMMITTED TO PROVIDING RELIABLE, EFFICIENT SERVICE TO WORLD SHIPPING. OPERATIONALLY, THE COMMISSION FUNCTIONS AS A COMMERCIAL ENTERPRISE THAT PROVIDES SERVICE TO THE MARITIME INDUSTRY IN AN INCREASINGLY COMPETITIVE ENVIRONMENT. ACCORDINGLY, WE MUST CONTINUALLY STRIVE TO BALANCE OUR PROGRAM EXPENDITURES WITH REVENUES RECEIVED, WHILE AT THE SAME TIME PROVIDING EFFICIENT TRANSIT SERVICE AT COSTS COMPETITIVE WITH OTHER ALTERNATIVES TO THE CANAL. THE OPERATING AND CAPITAL PROGRAMS PROPOSED FOR FISCAL YEAR 1987 WILL ENABLE US TO CONTINUE TO ACCOMPLISH THIS. DETAILED DESCRIPTIONS OF THE OPERATING AND CAPITAL PROGRAMS FOR THE COMMISSION FOR FISCAL YEAR 1987 ARE INCLUDED IN THE JUSTIFICATION BOOKLET PREVIOUSLY FURNISHED THE COMMITTEE.

MR. CHAIRMAN, THAT CONCLUDES MY PREPARED REMARKS. I SHALL BE PLEASED TO JOIN MR. GIANELLI IN ANSWERING ANY QUESTIONS YOU OR OTHER MEMBERS OF THE COMMITTEE MAY HAVE.

GRAMM-RUDMAN-HOLLINGS

Senator D'AMATO. Let me ask you some questions to get right to the heart of the matter. We do have a number of hearings, five of them scheduled now, all starting at the same hour. Hence, the necessity for the chairman leaving.

It has been pointed out that Gramm-Rudman-Hollings has anomalous effects. In the case of the Panama Canal, the amount sequestered resulted in increased payments to the Republic of Panama, not a decrease in the deficit. Is there much likelihood the canal account will be made exempt? And does the Office of Management and Budget support such legislation?

Mr. GIANELLI. Yes, Senator. We are hopeful that this will be the case. In fact, the administration has stated that it would support such an exemption of the Panama Canal Commission from the provisions of Gramm-Rudman, and Congressman Fields has legislation that has been introduced in that regard.

Senator D'AMATO. How much will be paid to Panama, exclusively, because of the Gramm-Rudman-Hollings?

Mr. GIANELLI. This year the amount would be somewhere around $18 to $19 million.

Senator D'AMATO. An additional $18 to $19 million, is this what you are saying?

Mr. GIANELLI. Or more.

Senator D'AMATO. Will an increased contingency payment to Panama take the form of a fiscal year 1987 supplemental?

Mr. GIANELLI. Yes, it would.

CURRENT POLITICAL SITUATION

Senator D'AMATO. Give us an overview of both the current political situation in Panama as we move toward their takeover of the canal in the year 2000, as well as their capabilities to run this facility after that time.

Mr. GIANELLI. Let me make a few preliminary comments, and Mr. McAuliffe I am sure can add to that.

We have an extensive training program, Senator, to train Panamanians to take over the operation of the essential features of the canal, and we think we are making good progress in that regard.

The governmental situation in Panama as you know is somewhat unstable at the present time. Since I have been going down there in the last 5 years they have had five Presidents. The current President has been in office for less than 6 months.

So the situation from the governmental standpoint is a little unstable, but from the standpoint of the canal, we are operating efficiently. The traffic is up this year as compared to last year. We are making great strides, as I indicated, to bring additional Panamanian employees on board.

The morale of the Panamanian employees is quite high in terms of the opportunities that they have. We are attempting to keep a U.S. work force there to provide the essential services until the Panamanians can take over. So all in all from the standpoint of the operations of the canal itself, it is going well, and we are very proud of our activity.

Mr. MCAULIFFE. If I might elaborate on one point, if you would assume that the training programs which we have instituted would be continued—and there is no reason why they would not—there will be intact by the year 2000 an organization primarily Panamanian that would be completely capable of operating and maintaining and improving the Panama Canal.

The question of uncertainty is related to the Government of Panama, and that is whether Panama by then will have instituted safeguards and protections for those employees so that they would be able to continue in their positions without any risk of losing jobs for political or other reasons.

And this kind of subject is now being discussed more openly in Panama, although obviously it is a long way away from being solved.

TONNAGE ESTIMATE

Senator D'AMATO. In fiscal year 1986, will you come closer to the tonnage estimate of 175.3 million tons shown on page 8 of the justification, or the 181.4 million projected this time last year?

Mr. McAuliffe. We have estimated the 1987 tonnage as being very close to the tonnage reflected for 1986, but when we put this budget together the traffic increase was quite moderate, and we were predicting a very moderate growth in traffic and in tonnage for 1987.

For the first 4 months of this fiscal year we have seen sharp increases in a number of the commodity trades using the Panama Canal, and the likelihood now is that if this trend continues we may very well have an underestimate of the traffic and tolls for 1987. But we are not prepared to make a firm estimate at this moment.

Senator D'Amato. Will you keep the committee apprised of any changes that you see? In other words, if you see a continued pattern in increased tonnage, we would like to be advised of that.

Mr. Gianelli. We certainly shall.

Senator D'Amato. I understand what you are saying, that the first 4 months have given you an unexpected increase. What do you attribute that to? Certainly not oil.

Mr. McAuliffe. No; there have been sharp increases in container movements and also automobile carriers. We have seen some modest increases in petroleum and petroleum products, and also in grains, although both have been rather weak increases. Coal shipments remain about the same as they have been through the past year.

Senator D'Amato. With an oil import fee let's say of $10 a barrel, do you think that would have much impact on your canal traffic?

Mr. Gianelli. I am not certain that it would, Senator.

Mr. McAuliffe. The petroleum we are seeing going through the canal for the United States is not a significant amount of our business. It is coming out of the west coast of South America. And with those levels of shipments I do not think an oil import tax would have much effect on canal traffic.

SUBMITTED QUESTIONS

Senator D'Amato. We have a number of other questions for the record which we would ask you to address for us.

[The following questions were not asked at the hearing, but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

APPROPRIATIONS LANGUAGE

SENATOR ANDREWS: The justification (pg. 4) states that two appropriations language changes are included in the budget: The termination of the Panana Canal Commission (PCC) fund and transfer of unappropriated fund receipts into the general fund. These changes are not included in the budget (appendix) as sent to Congress. What are these two specific references?

ANSWER: These references are to the changes proposed in the FY 1987 authorization language to convert the Panama Canal Commission from a special fund agency to a general fund agency. At the time the budget justification booklet was developed, the Commission assumed that these changes would be incorporated in the appropriation language for FY 1987.

SENATOR ANDREWS: When will the Office of Management and Budget (OMB) transmit them to the appropriations Committee, or will the change depend upon action by the Authorizing Committees?

ANSWER: It is our understanding that as soon as legislation has been introduced in the Authorizing Committees, the necessary changes in the appropriation language to accommodate this conversion will be transmitted to the appropriations committee.

SENATOR ANDREWS: What are the advantages of converting to an appropriation from the general fund, rather than the PCC fund?

ANSWER: The principal advantage is that it will solve the budget authority problems of the Commission at the beginning of each fiscal year. In solving this problem, the Commission will be able to deposit all receipts into the general fund, including the $85 million of the remainder owed on the 1980 general fund appropriation and $62 million of accumulated interest collected over the last 6-1/4 years and thus, place to rest the controversy over these two issues. Without a change in the funding structure, the Commission would not be able to relinquish the use of these two essential elements of funding authority.

RETURN OF ORIGINAL APPROPRIATIONS

SENATOR ANDREWS: It appears that conversion to the general fund concept will also result in a return of the unused startup appropriation, estimated at $85 million. In the past, the Commission has resisted returning these balances to the general fund. Why do you now support this?

ANSWER: The transfer of the $85 million can be accomplished because the Commission will be placed on the same basis as other Federal agencies, i.e., receiving the full annual funding authority at the beginning of the year based upon amounts approved by the Congress instead of receiving piecemeal funding authority based on the balance in the special Panama Canal Commission Fund. The elimination of the unusual requirement for the Commission to have a balance in the special account before obligations can be made will now enable the Commission to transfer this funding authority to the general fund.

INTEREST PAYMENT

SENATOR ANDREWS: Public Law 99-195, enacted on December 23, 1985, amends the Panama Canal Act of 1979 (Public Law 96-70) with respect to the payment of interest on the investment in the Panama Canal. The new law requires that portion of the tolls and other revenues collected by the Panama Canal Commission and attributable to interest on the U. S. investment to be deposited into the general fund of the U. S. Treasury as miscellaneous receipts rather than the special fund. How much will be deposited in FY 1986 and 1987?

ANSWER: The Commission estimates that interest deposits into the general fund of the Treasury in 1986 and 1987 will amount to $6.5 million and $8.7 million, respectively. The amount deposited in FY 1986 is based on the part-year impact of the change in the law which became effective January 1, 1986.

SENATOR ANDREWS: What will be done to deposit into the general fund the past-year's interest? What is the current estimate of interest on the Canal currently held in the Panama Canal Commission Fund?

ANSWER: The current estimate of accumulated interest which has been collected over the last 6-1/4 years is $62 million. Assuming the funding conversion occurs, interest receipts will be deposited into the general fund of the U.S. Treasury along with all receipts on deposit and any subsequent collections of the Commission.

SUPPLEMENTAL

SENATOR ANDREWS: A FY 1986 supplemental for $25,619,000 is requested, primarily for settlement of vessel damage claims. Will this amount satisfy all current outstanding claims through FY 1986? What amount will be set aside in future years?

ANSWER: Yes, the amount requested in the Commission FY 1986 supplemental ($24.5 million) is considered adequate to satisfy all vessel accident claims in excess of $120,000 for vessel accidents occuring outside the locks during fiscal years 1980-1986.

The Commission has, from the beginning, set aside funds for the payment of these claims through an annual charge to a reserve account. The amount set aside in the future is somewhat difficult to predict since the annual accrual is dependent upon the accident experience and the projected liability associated with vessel accident claims.

SENATOR ANDREWS: Were all claims audited?

ANSWER: The amount requested in the 1986 supplemental is the result of hearings and investigations conducted by the Commission's Board of Local Inspectors, marine engineers, and lawyers. Adequate Commission examination and review have thus been provided these claims, and the amount requested represents the best estimate of the Commission's liability for these accidents.

SENATOR ANDREWS: What procedures are in place to reduce the Commission's exposure for future vessel damage claims?

ANSWER: The Commission has implemented a number of programs in recent years to reduce the likelihood of marine accidents and to reduce the impact of accidents when they do occur. Among these programs are the following:

(1) New regulations were adopted concerning the carriage of hazardous cargoes.

(2) A Risk Management Team was established to administer the hazardous cargo regulations and to improve the Commission's response to threats from hazardous cargoes.

(3) In the early 1980's the Commission upgraded the lighting system at the locks by installing lighting on high masts. This lighting system enhances the safety of night operations at the locks.

(4) The recently completed vessel tie-up station north of Pedro Miguel Locks provides a mooring place for disabled vessels.

(5) The Commission has instituted simulator training for pilots at facilities in Panama and the United States. The facilities are used for both initial pilot training and retraining.

(6) The Commission has instituted an agency-wide alcohol and drug testing program. Under this program, employees whose conduct is believed to have contributed to an accident are to submit to alcohol and drug testing.

(7) The Commission is now authorized to purchase catastrophic insurance as protection against extraordinary losses due to accidents or events beyond the Commission's funding capability. The Commission is presently investigating this avenue as a means of reducing the financial burden due to catastrophic events.

GRAMM-RUDMAN-HOLLINGS

SENATOR ANDREWS: According to the March sequester order, the FY 1986 Capital account was reduced 4.3%, but operations sub-accounts had to be reduced 5.6% to achieve the overall 4.3% cut, because of excluding payments to Panama. Has the Commission requested transfer authority from capital to operations? If so, in what amount? Which specific items would be increased and decreased with such a transfer?

ANSWER: Initially, the Commission tried to shift a portion of the reduction in the operation program to the capital program. However, the Office of Management and Budget denied this approach, and the Commission has not pursued this any further.

TONNAGE PAYMENTS

SENATOR ANDREWS: The tonnage payment to Panama was scheduled to be adjusted in FY 1987. What percentage increase and dollar adjustment is necessary?

ANSWER: The net tonnage rate upon which Panama receives a payment is projected to increase from $0.31 to $0.33. This is an effective 6 percent increase for the two-year period 1985/1986 and results in a payment increase of approximately $3.7 million.

SENATOR ANDREWS: What portion of the $3.7 million increase in tonnage payments shown for FY 1987 is associated with the increased rates, versus increased volume?

ANSWER: Over 95 percent, or some $3.5 million, is associated with the increase in the net tonnage rate.

GRAIN SHIPMENTS

SENATOR ANDREWS: Last year the subcommittee heard testimony that grain shipments were expected to increase over their past depressed levels. Has this occurred, and if so, what commodities are most affected?

ANSWER: In FY 1985, grain shipments declined to the lowest levels since 1977 due mainly to drops in corn, wheat and soybean movements. Through the first five months of the current year, the grains commodity group is marginally above prior year levels. This trade is expected to continue improving moderately in the next few years.

TRANSFER TO PANAMA

SENATOR ANDREWS: Will the Canal remain a safe reliable system for world commerce?

ANSWER: The United States is committed to turning the Canal over to Panama in good operating condition. Based on that commitment, the Canal is expected to be in excellent physical condition when the Panamanians take charge. Our capital programs and our extensive training programs aimed at ensuring a skilled Panamanian work force in the year 2000 are on target. As a matter of fact, movement of Panamanians into technical and managerial positions is progressing very favorably. We would hope that the Government of Panama, from a professional point of view, would continue to use the best technology and put whatever resources are necessary into the Canal to ensure its continued excellent maintenance and operation.

As far as traffic movement through the Canal in the year 2000 and beyond, that is difficult to project. We would presume that the Canal, if operated after 1999 as it has been under the U.S. stewardship, will continue to be a viable transportation system for world trade.

SENATOR ANDREWS: What amendments to the Treaty are under active consideration? What changes do the Panamanians want, and what changes might the U. S. endorse?

ANSWER: The Panama Canal Commission is unaware of any Treaty amendments under active consideration. It is also unaware of changes wanted by the Panamanians or those which the U.S. might endorse.

EQUITY ADJUSTMENT PACKAGE

SENATOR ANDREWS: Two years ago the Subcommittee reviewed the establishment of an equity adjustment package for employees losing certain commissary and postal privileges on October 1, 1984. What is the current cost of this package? Is it decreasing as a result of decreased employment?

ANSWER: In 1987, the funding requirement for the equity package is estimated at $1.1 million. This is primarily for additional benefits such as home leave, educational travel, and small transportation allowances for persons living in remote areas, as well as equity payments to persons residing in private housing in Panama. These costs are expected to decrease with reductions in the number of U.S. citizen employees.

In addition, those eligible for the equity package receive quarters and electricity without charge. The lost revenues, which do not require appropriations, are estimated at $3.9 million.

The equity package has been an essential component of the Commission's employment practices since it has contributed to the retention of skilled employees who are essential to Canal operation.

SEA-LEVEL CANAL STUDY

SENATOR ANDREWS: The Treaty mandates a study of a new sea-level canal; however, funding arrangements between Japan, U.S.A. and Panama had not been worked out as of last year. What is the current status, as well as long-term prospects for this undertaking?

ANSWER: The study of the possible construction of a sea-level canal or another transportation alternative in Panama is being accomplished at a national level by the governments of Panama, Japan, and the United States. A Canal Alternatives Preparatory Committee, comprised of representatives from the three countries met for three years to develop the terms of reference for the feasibility study which will consider a full range of Isthmian alternatives to the Panama Canal, including modification of the existing waterway. That Committee completed their work late last year, and representatives of the three countries signed an agreement to proceed with the formal study, which is expected to cost approximately $20 million and take 5 years to complete. Each country will pay one-third of the cost of the study.

Presently, representatives of the Canal Alternatives Technical Secretariat have been meeting informally, working on a myriad of administrative details, such as financial arrangements, establishment of offices locally for the Secretariat and its resources, and other such administrative arrangements. Meanwhile, the governments are busy selecting members to head the Study Commission and to serve on the Technical Secretariat. Formal meetings of the Study Commission are expected to begin in the near future. More complete information can perhaps be obtained from the Department of State.

TRAFFIC FORECAST

SENATOR ANDREWS: Last year you projected FY 1985 oceangoing transits, daily average and tonnage at levels in excess of the actual rates shown in the current justification. Why was actual traffic down? What are the FY 1986 transits so far this year, compared to your current budget projections?

ANSWER: FY 1985 traffic results were below the budget targets for the year mainly as a result of depressed tonnage in two key commodity groups--grains and petroleum and products. Grain shipments dropped 16.4 percent in fiscal year 1985 and petroleum and products 12.7 percent.

For the first four months of FY 1986, total transits are above budgeted amounts by some 3%.

SENATOR ANDREWS: Tolls revenue for FY 1987 is now projected to be $312 million (compared to $329 million estimated last year). On which basis is the budget request formulated? How likely is it that traffic will be as robust as you projected last year?

ANSWER: The Commission's budget for FY 1987 has been formulated on the basis that tolls income in 1987 will approximate $312 million. However, Canal traffic and tolls revenues are currently running substantially above projections. This current strong traffic pattern is now expected to continue into FY 1987, and the present outlook for tolls income is to more closely approach that which was projected last year ($329 million).

If the high traffic levels are sustained, it may be necessary for the Commission to seek additional funding authority in 1987 to handle the increased work load.

OPERATING REVENUES

SENATOR ANDREWS: FY 1986 operating revenues of $427.4 million are down from last year's estimate, yet FY 1986 operating and capital obligations exceed last year's estimates. Why is more being obligated, at the same time revenues decrease?

ANSWER: Commission obligations in FY 1986 include $25.6 million associated with the 1986 supplemental requirement for marine accidents and the contingent profit payment. This supplemental financing was not originally included in the Commission's obligational projection for FY 1986.

TOLLS INCOME

SENATOR ANDREWS: Tolls income is down this fiscal year and for FY 1985 compared to last year's expectations. What caused the decline?

ANSWER: Actual traffic levels experienced in 1985 were below those estimated due to fall-offs in shipments of grain, oil, and steel, and abnormally low levels of automobile carriers. These levels were expected to improve only moderately, and Commission 1986 estimates were based on these predictions. However, tolls revenues during the first four months of this year are running ahead of this year's estimate by about $8 million, and almost $10.0 million more than the same period in 1985. This favorable tolls picture is primarily due to increased transits of automobile carriers, and strong performance of the grain, petroleum and petroleum products trades which move principally on PANAMAX size vessels.

FINANCING

SENATOR ANDREWS: In FY 1984 $32.8 million was lapsed. In FY 1985 $22.4 million lapsed. The Commission also is carrying over unobligated balances in each of these years of over $19 million. Last year this was explained as "carry-over requirements in the capital program", and that this situation would be corrected. Since the capital account is "no-year" funding, isn't the lapsed money unspent appropriations for operations? Why were actual FY 1985 obligations 7 percent lower than was estimated last year?

ANSWER: The amount of $22.4 million represents savings that occurred in FY 1985 as a result of the Commission's mandate to operate on a self-sustaining break-even basis. That is to say, when the level of Canal business and thus revenues drop, a likewise reduction in operating expenses must also occur. Additionally, the Commission was able to reduce its obligational requirement for purchases of fuel used to generate power by substituting hydro-electric power due to increased rainfall during the year.

SENATOR ANDREWS: Why should the Congress approve another $27.5 million for capital projects when so much is unspent this year and last?

ANSWER: The $27.5 million requested in 1987 is designed to replace, maintain and improve Canal plant, facilities and equipment in order to meet the continuing demand for improved Canal services. A number of circumstances preclude full obligational performance including distance from the contracting firms and the vendors; review of the market, both in Panama and around the world; and often the uniqueness of the capital item being procured.

Nevertheless, projects not obligated in the current year are usually obligated early in the succeeding year. The carryover funds in 1985 totaled $9.4 million and are principally associated with the purchase of a dredge tender and purchases for the Electrical Power and Communication Systems. Funding for the dredge tender was not received until the latter part of August in a supplemental appropriation which precluded obligation of funds in FY 1985. With regard to Electrical Power and Communication Systems, delays in developing the bid package for a multi-year purchase of telecommunication equipment account for another large portion of the carryover. At the present time, most of the projects carried over from 1985 have been, or are in the process of being obligated.

As of February, the obligated 1986 capital funds are relatively on schedule--nearly 75% of the amounts scheduled through that date have been obligated. The requested $27.5 million for the FY 1987 Capital Program are deemed necessary and essential in order to provide safe and efficient transit services both now and for the future.

SENATOR ANDREWS: What is the current unobligated capital balance?

ANSWER: As of the end of February 1986, the unobligated balance for capital appropriations was $27,832,374. By year end, it is expected that the Commission will obligate approximately 90% of the total capital program for FY 1986.

LONG-RANGE TRAFFIC STUDY

SENATOR ANDREWS: The long-range traffic study was not complete at the time of last year's hearing. Is it now complete? What adjustments were made to your traffic forecasts as a result?

ANSWER: The Manalytic forecast of Panama Canal traffic and tolls revenue through the year 2010 was completed in March 1985. Long-range forecasts are useful in providing trends over a period of time. Year-to-year variations from the general estimates are expected and therefore short-term projections must be refined according to current patterns. As a result, although the long range forecast is utilized as a guide, short-term budget projections are developed in-house. The fiscal year 1986-1987 estimates developed by the Commission are supported by the projections provided in the long-range study.

TOLLS

SENATOR ANDREWS: That traffic study was to help assess the need for a toll increase in FY 1987. Will tolls be increased, by how much and when? What are the traffic impacts on a toll increase?

ANSWER: The Commission's budget projection through FY 1987 do not contemplate a toll-rate increase. The adequacy of tolls will be reassessed again as the financial projections for FY 1988 are developed. It may be necessary to implement some adjustment in the toll rates in fiscal year 1988, although every effort will be made to avoid or minimize any increase in order to retain the Canal's competitive position.

A comprehensive study in 1981 found that the sensitivity of Canal traffic to small toll-rate increases of less than 15 percent would not severely impact on the volume of cargo moving through the

Canal. The Canal is not a monopoly and, therefore, increases in the neighborhood of more than 15 percent in tolls could cause a major number of our customers to shift to other alternatives.

SENATOR ANDREWS: How many consultants will be paid by the requested $345,000 shown on page 31?

ANSWER: The number of consultants is dependent upon the specific requirements of the Commission for professional knowledge and services not otherwise available within the Agency. Although the budget amount is provisionary in nature, based on past experience, the Commission can be expected to hire approximately five to ten consultants each year to assist in certain areas, including financial, personnel, legal, industrial relations, equal opportunity, and data processing.

CUT-WIDENING FEASIBILITY STUDY

SENATOR ANDREWS: The Cut Widening Feasibility Study was to be finished by the first quarter of FY 1986. When will the widening of the Gaillard Cut be considered by the Board? What cost/benefit conclusions were reached?

ANSWER: The study of the possible widening of the Gaillard Cut is progressing well and should be ready for Board consideration early in calendar year 1987. Many of the most important elements, including the technical, operational, economical, and environmental analyses, have been completed or will be finished shortly. The cost-benefit analysis and the financial analysis are two major elements still to be accomplished. The cost-benefit analysis is being accomplished by Panama Canal Commission staff and should be completed within a few months. The financial analysis, which will evaluate potential alternatives for financing the cut-widening project and ultimately recommending the best source of finance, will be accomplished by an independent consulting firm under contract to the Commission. Potential contractors are being evaluated at this time and a contract to conduct the analysis is expected to be awarded shortly.

SENATOR ANDREWS: What is the cost? How could it be financed? What will be the long-term benefit of two-way, wider vessel traffic? Which commodities are most likely to increase canal transits if this investment is made?

ANSWER: Initial estimates indicate that the cost of widening the Gaillard Cut could be between $400 and $600 million. Those estimates are being refined at the present time. The financial analysis evaluating potential alternatives for financing the cut widening project and ultimately recommending the best source of finance will be accomplished by an independent consulting firm under contract to the Commission. Potential contractors are being evaluated at this time and a contract to conduct the financial analysis is expected to be awarded shortly.

The widening of the Gaillard Cut would significantly increase the Canal's capacity to transit more vessels and, most importantly, it would increase the waterway's capacity to transit increasing numbers of wide-beam vessels which are presently restricted to one-way passage during daylight hours in that narrow section of the waterway. Our current forecast indicates that there will be sustained moderate growth in Canal traffic over the long-term. Most of that growth will be generated by increases in commodities which will likely be transported on PANAMAX size vessels.

SENATOR ANDREWS: Since this investment, if undertaken, would lead up to the transfer in the year 2000, are the Panamanians actively involved in financing options? Or do they feel, as you stated last year, that this is a U.S. responsibility?

ANSWER: The Board of Directors, which is composed of five U.S. citizen members and four Panamanian members, has authorized a financial analysis to be performed by outside consultants on the question of Gaillard Cut widening financing. It is expected that a contract will be awarded shortly and that the project analysis will be completed by calendar year end. At that time, the results of the study will be presented to the Board of Directors for its review and consideration. It is unknown, at this time, whether the Panamanian members of the Board of Directors will feel that the cut-widening project is wholly a U.S. responsibility once they have had the opportunity to review the financial analysis.

SENATOR ANDREWS: Why is $565,000 shown for FY 1986 (on page 16 of the justification) under special studies, when the study was to be completed this year? On what studies will the $200,000 required for FY 1987 be spent?

ANSWER: The Cut-Widening Study requires several independent evaluations to establish its technical, operational, and financial feasibility. The analyses often must be done sequentially as the output from one phase is needed as input to the next. Although some phases will be ready in FY 1986, the study will not be completed until early FY 1987. In FY 1987, $100,000 will provide for completion and closing costs of project. The remaining $100,000 in FY 1987 provides for special studies related to the maintenance and operation of the Canal.

CANAL CAPACITY

SENATOR ANDREWS: The present canal capacity is for 44 vessels daily, well in excess of the 32 or so now using the Canal. However, the requirements for broad-beamed vessels could create a bottleneck. Last year testimony was given that those vessels could reach a capacity limit within 10 years. Is that still the case, or have capital investments mitigated this problem?

ANSWER: The completion of a number of projects in recent years--including the acquisition of new, more powerful tugboats and locomotives, the installation of high-mast lighting at all sets of locks, and the construction of a multi-million dollar tie-up or mooring station north of Pedro Miguel Locks--increased Canal capacity to approximately 42 vessels daily with a corresponding increase in the Canal's ability to transit wide-beam vessels. That increase in capacity depends on ship-mix, but should allow the Panama Canal to efficiently serve expected traffic demand well beyond 1990. The widening and straightening of sections of the waterway have also contributed to improving the safety factor in transiting large beam vessels. There is a possibility that continued growth in the number of wide-beam vessels could become a problem during the next decade. We are in the process of fully analyzing the long-range capacity/demand balance as part of the Cut-Widening Feasibility Study.

SENATOR ANDREWS: Even if the Gaillard Cut widening proceeds, aren't there lock size limitations for large vessels?

ANSWER: Yes, ultimately the physical dimensions of the lock chamber dictates the size of vessel that can transit the Canal.

The lock chambers are some 110 feet in width, 1,000 feet in length, and allow for an approximate 40-foot draft. The normal maximum vessel size that can be accommodated is 106-foot width and 900-foot length.

UTILITIES

SENATOR ANDREWS: Why do both revenues and operating expenses (pg. 19) for the power system decrease relative to last year's estimates?

ANSWER: The decrease in the Power System expenses relative to last year's estimates is due principally to a revision in the estimates of cost and usage of fuel for the Commission's thermal generating stations.

The reduction in revenue is associated with the lower fuel costs.

OPERATIONS COSTS

SENATOR ANDREWS: Why do FY 1987 costs to maintain channels, as well as general repair and maintenance decrease in FY 1987, given the expected increased volume of traffic? Are non-lock maintenance and repair costs deferred significantly in the proposed budget?

ANSWERS: The cost decrease in FY 1987 for "Maintenance of Channels, Dams and Spillways" is mostly attributable to work load decreases on floating equipment overhauls and on dredging maintenance services. Cost decreases in FY 1987 for "General Repair and Maintenance" are mainly associated with decreased maintenance requirements due to transfer of Commission housing units to the Government of Panama.

LOCK OVERHAUL

SENATOR ANDREWS: The Commission completed overhaul of the Gatun Locks portions last fiscal year, and is conducting overhaul of the Pedro Miguel Locks this fiscal year. Why did it cost over $1.5 million to prepare for the Pedro Miguel overhaul originally estimated to cost $400,000? How reliable are the estimates for the Miraflores Locks, now budgeted at $600,000?

ANSWERS: The original estimate for Pedro Miguel Locks preparatory work of $400,000 did not include $1,070,000 for unanticipated emergency repairs to a caisson necessary to dewater the locks chamber. The current estimate for Miraflores Locks preparatory work is accurate.

APPRENTICE SALARIES

SENATOR ANDREWS: Why do apprentice salaries double from FY 1985 to almost $3.2 million in FY 1987?

ANSWER: The doubling of apprentice salaries between fiscal year 1985 and fiscal year 1987 will occur as a result of a significant increase in the overall number of apprentices and trainees and the final elimination in September 1985 of the Dual Wage System which resulted in higher wages paid to apprentices and other trainees.

COLLECTIVE BARGAINING

SENATOR ANDREWS: Last year the Commission estimated that the final collective bargaining agreement would result in $1 million savings in labor costs. What was actually saved in FY 1985 after the agreement took effect in the Spring? What are the savings this fiscal year and projected in FY 1987? Were these savings factored into the budget request?

ANSWER: The Collective Bargaining Agreement, finalized in April 1985, eliminated the 6x4 Special Schedule Allowance at an estimated part-year savings in 1985 of $250 thousand. The annual savings this fiscal year and in FY 1987 are estimated at $600 thousand due to the elimination of this allowance and these savings have been included in the budget request.

REPRESENTATION EXPENSES

SENATOR ANDREWS: Last year, the conferees provided $10,000 in Board representation expenses; $1,000 in the Secretary's representation expenses; and $25,000 for the Administrator's expenses. These amounts are requested to increase from $36,000 to $43,000. Please outline major expense items in each category for FY 1983 - FY 1987. Why is another increase necessary in FY 1987?

ANSWER: This is a breakdown of the Reception and Representation expenses for the Panama Canal Commission:

Reception and Representation Expenses
Panama Canal Commission

	Actual			Estimates	
	FY 1983	FY 1984	FY 1985	FY 1986	FY 1987
Supplies and materials	10	8	7	7	8
Other expenses	20	21	26	26	35
	30	29	33	33	43

Increases in representation expenses are primarily due to increases in the number of functions sponsored by the Commission for visiting dignitaries from foreign countries and the United States and groups who are users of the Canal. There is an increasing interest by all parties in the Canal's competitive ability to meet current world transportation needs and its future outlook after the year 1999. Alternate modes of transportation, such as the landbridge across the United States, are continually being considered by our customers, and it is to the Canal's benefit that shipping understands why the Canal is still the best system to use. Inflation has also added to the increased costs which are primarily supplies of consumable goods.

VEHICLES

SENATOR ANDREWS: The FY 1986 budget language requested statutory authority for 47 vehicles; Congress approved 44. This year's request is for 41. Why does the vehicle replacement fluctuate yearly?

ANSWER: The amount of passenger-carrying vehicles purchased in any given year depends on the following:

a. The number of vehicles eligible for replacement under GSA replacement standards (generally 6 years or 60,000 miles for passenger vehicles). This amount generally depends on the individual usage of each vehicle.

b. Increasing or decreasing operational requirements of the agency (an increasing/decreasing number of ships going through the Canal or other operational variances will require a corresponding increasing/decreasing need for vehicles to carry pilots, tug crews, etc.)

c. The number of vehicles involved in accidents in any given year with damage beyond economical repair.

d. The difference in the number of vehicles requested by the Commission and approved by Congress. (The three vehicles not approved by Congress in 1986 will be requested in 1987 which will cause a variance in the number of vehicles approved and purchased.)

e. The purchase of passenger-carrying vehicles in previous capital programs. If a large/small number of vehicles are purchased in one year, this same number of vehicles will generally become eligible for replacement 6 years or 60,000 miles later which will produce a large/small requirement for replacement vehicles at that time.

ADMINISTRATIVE EXPENSES

SENATOR ANDREWS: Why is FY 1987 full-time employment reduced for transit operation, while supporting operations personnel levels stay the same for FY 1985 through FY 87?

ANSWER: When the Commission's work year ceiling projections were developed for 1986 and 1987, the outlook was for modest traffic growth. Accordingly, the Commission's personnel practices with respect to transit operations were designed to constrain employments and, where possible, improve on productivity by reducing existing levels of employments. The transit operation which accounts for nearly 80% of the Commission's personnel requirement is principally affected by varying workload requirements to transit ships and perform maintenance and overhaul projects.

However, in the first four months of this year, traffic has been increasing, and it may be necessary for the Commission to request an increase in the personnel levels for fiscal years 1986 and 1987 to cover the increased requirement for tug crews, linehandlers, and associated transit-related positions.

SENATOR ANDREWS: With traffic increases this fiscal year, will personnel be shifted to transit operations from support and administration categories? To what extent?

ANSWER: If traffic continues at the levels currently being experienced, it may be necessary to shift authorized positions between functions or for the Commission to request additional ceiling slots and funding authority to cover additional personnel requirements of the tug, launch, linehandler, and associated transit activities. The skills required in these activities do not lend them to being filled by transferring administrative-type personnel.

SENATOR ANDREWS: Explain the Administrator's office account increase of $600,000 in FY 1987 over the FY 1985 level. How large is the "modest contingency for cash grants to assist . . .

organizations"? Which organizations have received grants, how much, and for what purpose?

ANSWER: The increase in the Administrator's Office in FY 1987 over the 1985 level is principally due to inflation, fuller occupancy of positions occupied part year in FY 1985, and additional positions associated with developmental training and the economic forecasting responsibility of the Commission.

The modest contingency for cost grants total $25,000 in 1987. This amount is intended to provide support to community organizations which contribute to the morale and welfare of the Commission employee community. Through January of this year, three organizations have received grants. These include Brazos Brook Country Club - $3,000; Gamboa Country Club - $5,000; and Industrial Softball League (Atlantic) - $2,000.

SENATOR ANDREWS: Why does official residence maintenance increase approximately 50 percent in FY 1986 over last year? How much in addition to maintenance and utility costs is spent for other staff services associated with the official residence?

ANSWER: The increase in official residence maintenance in FY 1986 over 1985 is principally due to central air-conditioning system improvements and equipment replacement. Additional funds also allow for refurbishing of protective covering on exterior of residence. The staff services associated with the official residence of the Administrator is estimated to cost $40 thousand.

EMPLOYMENT

SENATOR ANDREWS: The FY 1986 and 1987 employment level of 8,300 is below the actual FY 1984 level of 8,350. Last fiscal year, 60 additional full-time equivalent positions were added "to allow (for). . . as normal level of operation following an austere year". With traffic projected to increase, why is employment dropping?

ANSWER: The Commission has been attempting to moderate its employment ceiling over the last few years giving recognition to an anticipated modest traffic growth through the budget period and for the near future. For example, the employment ceiling tentatively approved by OMB prior to submission of the 1986 Budget was 8,525. This reduction of 225 in the 1986 level reflects the Commission's objective of holding employments to reasonable levels in order to handle the demands placed upon it by world shipping.

Athough the Commission's authorized personnel ceiling in 1985 was set at the 8,410 level, actual performance against that ceiling was 8,216. Accordingly, while the 1986 estimates reflects a decrease in the authorized level, the estimate allows for a modest increase in the employment levels over that which was experienced in 1985. Because of the current high levels of Canal traffic, it may be necessary to request an increase in the 1986 and 1987 employment levels. The Commission will be assessing this requirement in the near future in light of the Gramm-Rudman reductions and the current economic outlook.

TUGBOAT REPLACEMENT

SENATOR ANDREWS: The FY 1986 request contemplated replacement of the 1961 tugboat STEVENS. Another $3.5 million is requested this fiscal year to replace a 1967 vessel, the

ROUSSEAU. Why does this replacement take priority over the three older tugboats? When will they be replaced?

ANSWER: The replacement of the ROUSSEAU does not take priority over the replacement of the three older tugboats. Of the three older tugboats, the WALLACE (1961) and the GOETHALS (1961) will be replaced in FY 1986; the STEVENS (1961) will be replaced in FY 1987. Although the RODMAN (1966) would normally be the next boat to be retired, it was recently overhauled and is in overall better condition than the ROUSSEAU (1967). The ROUSSEAU will be retired in FY 1988 and the RODMAN in FY 1989.

PCB TRANSFORMERS

SENATOR ANDREWS: The budget requests $1,540,000 to replace 86 PCB transformers. This is a unit cost of $18,000 compared to last year's testimony of a FY 1984 unit cost of $8,000. Please explain. The total project of replacing 168 transformers for $3.5 million suggests a $20,800 unit price. What will the last 60 transformers cost? Why has the price risen to this extent?

ANSWER: The $1,540,000 million budgeted for FY 1987 provides $960 thousand to install transformers purchased during FY 1986 and $580 thousand to purchase and install additional transformers during FY 1988.

The unit price of transformers remains essentially the same at an estimated $10,000 each. However, the cost of installation varies based on the facility modifications required to accept the new units.

PANAMA CANAL COMMISSION PILOTS

SENATOR ANDREWS: Is the pilot work force still at 219? Of this amount, how many are Panamanians, and how many Panamanians are in training? Will the 90% Panamanian goal be realized by 2000?

ANSWER: The Panama Canal Commission currently has a total of 213 pilots, 16 of which are Panamanian citizens. In addition the Commission has 27 employees in pilot training positions of which 23 are Panamanians.

Based upon a recent employment level forcast, it is estimated that 92% of the pilot force will be Panamanian by the year 2000.

QUESTIONS SUBMITTED BY SENATOR CHILES

REVENUE ESTIMATES

SENATOR CHILES. I understand that the Canal seems to be doing quite well so far this year in terms of traffic which appears to be running above that anticipated in your current budget. Do you expect this increase to continue for FY 1987? If this is the case, does this indicate that the revenue projections in your budget submission are underestimated? Do you anticipate submitting a supplemental to use these increased revenues? What conditions have given rise to this unanticipated traffic?

ANSWER: Based on higher levels experienced during the first four months of 1986, we expect growth in traffic levels to slow during the remainder of the year. However, it is anticipated that tolls revenue by year-end will exceed the budgeted amounts by about $8.0 million. Growth is also expected to continue somewhat in FY 1987, and could exceed our budgeted amount. If this performance continues, the Commission would seek a FY 1987 supplemental in order to allow it to meet the resulting higher workload levels.

This traffic performance reflects a number of factors. Transits by automobile carriers have been on the upswing following abnormally low levels in the closing months of 1985. This development, combined with a strong performance of grain, petroleum, and petroleum product trades, which move on large PANAMAX size vessels, principally accounted for the sharp tolls revenue increase experienced thus far. Grain and crude oil shipments have reached their highest levels in two years. An increase in U.S. grain exports through the Canal accounted for the improvement in the grain movement, with oil shipments from the West Coast of South America accounting for most of the increase in the crude oil trade.

FY 1986 SUPPLEMENTAL

SENATOR CHILES: Your request includes a FY 1986 supplemental for $24.5 million. I understand that these funds are to pay accident claims which have been unresolved since as long ago as 1979. Now that the Commission has the authority, which it previously lacked, to settle such claims, in the future can we expect an annual amount in the budget to cover the costs of such claims?

ANSWER: Vessel accident costs are considered part of the costs to transit vessels and are, therefore, included in the tolls structure. The costs of these claims are estimated by the Commission based on its accident experience, transit work loads, vessel size, and other transit-related activities. As a result of the annual estimate, claim costs are recorded in the accounts as operating expenses and are included in the Commission's annual budget. The offset to this annual expense charge is a credit to a marine accident reserve account from which settlements of claims will be funded. The $24.5 million supplemental represents appropriation authority to expend some of these reserved funds held in the Treasury since FY 1980.

SENATOR CHILES: To get some idea of the annual cost of these claims, please submit a chart showing, on an annual basis, claims estimates since 1979.

ANSWER: The following tabulation identifies the amounts paid for vessel damage claims since FY 1980:

Fiscal Year	Amount Paid (In Millions)
1980	$ 1.0
1981	5.1
1982	1.8
1983	2.2
1984	3.9
1985	3.5
	$17.5[1/]

1/ In addition, the Commission's FY 1986 supplemental request for $24.5 million provides funds to pay vessel accident claims occurring outside the locks where the claim exceeded $120,000. Prior to December 23, 1985, the Commission was precluded from settling these claims, and specific Congressional approval was required.

WIDENING OF GAILLARD CUT

SENATOR CHILES: The biggest issue concerning the physical condition of the Canal is the possible widening of Gaillard Cut from the current 500 feet to 700 feet. What studies do you have underway on this budget and what is their status? When do you expect a decision on this undertaking?

ANSWER: The Commission's budget assumes $290 thousand and $100 thousand to be devoted to the Gaillard Cut study in 1986 and 1987, respectively. Certain elements concerning the technical, operational, economical, and environmental analyses have been completed or will be finished shortly. The $100 thousand in FY 1987 will provide for completion and closing costs of the project. The financial analysis, a major element, is still to be accomplished. This study is progressing well and should be completed by early calendar year 1987.

LOWER OIL PRICES

SENATOR CHILES: We are all aware of the rapidly dropping price of oil. Currently it is in the range of $15-$20 per barrel. I understand that your budget assumed a price in the range of $30. If the price of oil continues to stay at the low level, this should provide real savings to the Canal in its operating costs. Can you give us an estimate of oil usage and how much savings below the budget can be achieved?

ANSWER: The Commission's budget for 1986 estimated $25.2 million in oil cost. On the basis of current oil cost, and should it continue, it is possible that the Commission will save approximately $5 million in FY 1986. Nevertheless, any savings associated with reduced fuel prices will be used in other operating areas, particularly to handle the increased workload.

FUTURE TOLL INCREASES

SENATOR CHILES: The Canal has not had a toll increase for several years and none is contemplated in the FY 1987 budget. Do you have any plans or schedule for future toll adjustments?

ANSWER: The Commission constantly monitors its costs in relation to revenues and our tolls increase is dependent upon the outlook for Canal traffic and future costs.

USE OF PANAMANIAN CITIZENS AS PILOTS

SENATOR CHILES: The Canal has a plan for increasing the number of Panamanian citizens in the work force as we come closer to the date of transfer of the Canal. Perhaps the most critical skills area would be that of the pilots needed to guide ships through the Canal. How well is this plan proceeding?

ANSWER: A plan for gradually, but steadily, increasing the number of Panamanian pilots on Commission rolls was approved in October 1985 by the Board of Directors. The plan projects a minimum of 92% Panamanians in the pilot work force by year 2000. The plan calls for selecting qualified pilot candidates from one of several entry sources: PCC towboat masters with two years' experience; maritime academy graduated with two years' oceangoing experience at least as third mates; and candidates with at least one year of oceangoing experience as chief mate. The plan has only recently become operational, and we are not yet in a position to measure its effectiveness. However, our managers in recruitment and maritime training are confident and optimistic about the plan.

SENATOR CHILES: How many pilots do you have and how many of them are Panamanians? How does this compare with other areas of the Canal's work force?

ANSWER: Currently, there are 213 fully qualified pilots, 19 pilots in training and 8 in the pilot understudy program. Of these, 39 or approximately 13 percent, are Panamanians. This reflects a significant increase in the percentage of Panamanians in the pilot force which stood at 1.7 percent in October 1979. In turn, Panamanian participation in the total permanent work force now exceeds 80 percent, compared to 69 percent at Treaty implementation. Other areas of the permanent work force are shown below:

Wage Category	RP %	US %	TCN %
Apprentices	100.0	0	0
Fire Fighters/Officers	91.7	6.8	1.5
Floating Equipment	53.3	46.3	0.4
Power	60.0	37.8	2.2
Non-Manual	64.4	34.1	1.5
Manual	91.9	5.2	2.9

INTEREST PAYMENTS TO THE TREASURY

SENATOR CHILES: Last year the Congress passed legislation which at least partly resolved the question of what should be done with interest payments which have been accumulating in the Panama Canal Commission Fund. As a result of P.L. 99-195, such payments are now being deposited in the general fund of the Treasury. As I understand it, this will apply to all current and future interest payments. Now, if we can do the logical thing and apply this principle to the accumulated past interest payments, I think the taxpayers will be well served. Should the Congress not now follow up last year's action, with similar legislation which would provide for depositing $67 million in past accumulated interest in Treasury's general fund?

ANSWER: It has been the Commission's position that it would not oppose the deposit of accumulated interest (some $62 million) into the Treasury with a change in the funding structure of the Commission, i.e., to a general fund appropriated agency. However, because of the effect on Canal customers, the Commission does not support retroactively increasing the investment base. Adding $62 million to the interest-bearing investment base would cause the Commission's operating cost to increase by approximately $6 to $7 million which would have to be recovered through tolls.

Since the Commission has been following the law with respect to the calculation of the investment base and the treatment of interest expense, retroactive application would be patently unfair to the Commission and to Canal users since it has not been anticipated through the budget period. Also, our customers would perceive it as a duplicate charge.

EVENING CANAL DEPTH

SENATOR CHILES: The Commission has evidently had an ongoing program to maintain consistent depth in sections of the Canal. Where do you stand in this program? How much remains to be done? What has been the annual cost of this effort in each of the past five years?

ANSWER: Leveling of the Canal bottom was completed in May 1985. The estimated cost of this effort in each of the past five years is provided below:

(In Millions)

FY 1981	FY 1982	FY 1983	FY 1984	FY 1985
$ 2.1	$ 3.9	$10.2	$18.0	$ 6.9

FIRE PROTECTION

SENATOR CHILES: Your budget indicates a request for $1.9 million for fire protection systems. Justification indicates that this is a multi-year project. What is the nature of the fire threat that is designed to combat? How long is the multi-year plan and at what stage are we now in? Please indicate past and future costs for this effort.

ANSWER: The increasing size of ships transiting the Canal with hazardous cargoes highlight the fact that more than ever the Canal is exposed on a daily basis to substances which have a tremendous potential for damaging and destruction of the Locks. The National Fire Protection Association, in a recent survey of the Locks firefighting system, stated that "the operation of the Canal is so vital that protection and disaster planning should be developed as a prime function of the potential for damage or destruction of locks operations independently of past experience." In essence, these funds are to provide firefighting capability at the first echelon in response to the areas most vulnerable to being struck by a vessel, i.e., the knuckles.

This effort was commenced in FY 1984 and will continue through FY 1987. In FY 1984 and FY 85 ($100 thousand each year), additional roads for access to the vulnerable areas were provided. This also included the installation of additional fire hydrants. Expenditures for FY 1986 ($1.4 million) and FY 1987 ($1.9 million) are for the installation of a firefighting system for protection of the knuckles and other parts of the locks.

SUBCOMMITTEE RECESS

Senator D'AMATO. The subcommittee stands in recess. The next hearing will be March 19, at 10 o'clock in the same room.

Thank you very much.

Mr. GIANELLI. Thank you very much, Senator.

[Whereupon, at 10 a.m., Wednesday, March 12, the subcommittee was recessed, to reconvene at 10 a.m., March 19, 1986.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1987

WEDNESDAY, MARCH 19, 1986

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, D'Amato, and Byrd.

NATIONAL TRANSPORTATION SAFETY BOARD

STATEMENT OF JIM BURNETT, CHAIRMAN

ACCOMPANIED BY J. PETER KISSINGER, MANAGING DIRECTOR

OPENING REMARKS

Senator ANDREWS. The subcommittee will come to order.

Today of course we will hear from the National Transportation Safety Board from Chairman Burnett. The chairman is here, and we appreciate your appearing before our subcommittee.

Let me point out, Mr. Chairman, that in the interests of time—the Budget Committee starts upstairs at 10 o'clock, which has a great deal to do with what we are doing down here—I would hope you could forgo the reading of your statement. It will appear in the record as though you had uttered every word of it.

If you want, summarize it just briefly, or if you just want to go to the questions that would give us a little better handle.

Before we proceed to Mr. Burnett's statement we have opening statements from Senators D'Amato and Chiles that will be placed in the record.

[The statements follow:]

STATEMENT OF SENATOR ALFONSE M. D'AMATO

Mr. Chairman, I would like to make a few comments concerning the fiscal year 1987 proposed budgets for the Architectural and Transportation Barriers Compliance Board [ATBCB] and the National Transportation Safety Board [NTSB]. Both of these agencies are important components in our national transportation program.

NTSB is an independent, nonregulatory agency which is responsible for promoting safety by investigating accidents, performing special studies, and developing recommendations to prevent accidents. Its most important function is to investigate all catastrophic transportation accidents. However, the NTSB is also charged with evaluating the success of other Government agencies in preventing transportation accidents and reviewing appeals of actions taken against holders of transportation certificates and licenses.

Since the NSTB has no control over the frequency of the costly accident investigations which Congress has mandated that it undertake, it therefore has no control over the amount of funds that may be needed for this purpose. For this reason, an emergency fund is provided to enable NTSB to carry out its mission without harmful delays. The administration has proposed $21.43 million in fiscal year 1987 budget authority for NTSB.

The Architectural and Transportation Barriers Compliance Board is responsible for implementing a compliance program to ensure accessibility and usability of most Federal and federally funded buildings by physically handicapped persons. It also investigates, processes, and resolves complaints of noncompliance. The ATBCB was established pursuant to section 502 of the Rehabilitation Act of 1973 to ensure compliance with the Architectural Barriers Act of 1968. The administration has proposed $1,975,000 in budget authority for fiscal year 1987 for this program.

Mr. Chairman, I look forward to hearing the testimony of today's witnesses.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR LAWTON CHILES

I am pleased to welcome the chairman of the National Transportation Safety Board to the committee hearing.

I think that all of us are becoming more and more aware of the need for careful attention to transportation safety. Last year's tragic series of major aviation accidents, and the recent shuttle tragedy, have impressed on the public the need for continuing vigilence where safety is concerned. I consider the board as the frontline troops in our safety effort. We look to the board to provide the knowledge and expertise in this never-ending battle to protect the public.

Mr. Chairman, I know you have some strong and extremely knowledgeable views on these vital questions. I look forward to hearing your testimony.

PREPARED STATEMENT

Mr. BURNETT. Mr. Chairman, I would like to introduce Mr. Peter Kissinger who is the Managing Director of the Safety Board. I will not summarize my statement and we can move on to questioning, if that is the committee's desire.

[The statement follows:]

STATEMENT OF JIM BURNETT

Mr. Chairman, I appreciate the opportunity to appear before you to discuss the National Transportation Safety Board's FY 1987 budget. On behalf of the Board, I want to express my gratitude for your strong support of our mission and activities.

That support was all the more meaningful during a year such as 1985 in which accidents so dominated the news. Safety Board accident investigators performed in a highly competent manner in the face of mounting Congressional, media and public concern about aviation safety. Speaking for the Board, those staff members deserve deep appreciation and high praise for their professionalism, as do those who have been working hard in the other less visible transportation modes in the Washington and field offices.

The accomplishments of the staff are a reflection of our fine management team. Their dedication and commitment to transportation safety are a source of great pride.

Aviation

This past year, unfortunately, has been marred by spectacular aviation accidents spreading the Safety Board's staff literally around the world. And the work has hardly been "routine" -- investigators have climbed the heights of the Andes and scoured the floors of the Atlantic in search of accident clues. Most recently we were asked to participate in the investigation of the Challenger shuttle accident, expanding our horizons even into space transportation safety.

Human Performance

I'd like to review a sample of the Board's workload for the past year, beginning with the crash on takeoff of a Galaxy Airlines Lockheed L-188 from Reno in January. Citing a "breakdown in crew coordination", the Board determined that the probable cause was, essentially, failure of the crew to fly the airplane while troubleshooting a vibration. Repeated findings of inadequate cockpit resource management, among other issues of human error involvement in accident causes, led to formation of the Safety Board's Human Performance Division in 1983. This new division has paid off in a number of accident investigations, and we consider it key in attempting to understand and beginning to resolve many of the "whys" behind human performance failures in all modes of transportation.

Another example of problems with human performance in the cockpit was the in-flight upset in February of a China Airlines B-747 in which the airplane entered an uncontrolled descent from 41,000 to 9,500 feet before the pilot was able to restore it to stable flight. The Board determined recently, in part, that the captain's failure to monitor the airplane's flight instruments resulted in loss of control.

Runway Incursions

An even more potentially disastrous aviation incident took place shortly after my appearance before this Committee last year -- the near collision of two DC-10 airplanes with a total of 501 persons on board on a runway in Minneapolis. This was one in a series of what appears to be increasingly frequent runway transgressions. Concerned that runway incursions were becoming a significant safety issue, the Board launched a special investigation to determine the severity of the problem. Our findings thus far suggest that most of these occurrences result from miscommunication, misunderstood clearances or key personnel simply forgetting the clearances or the location of aircraft that present a hazard to one another. Generally, human error on the part of pilots and controllers underlie the causes of these potentially catastrophic incidents.

The type of runway accident we feared took place in June when a National Guard RF-4C collided with a Smith Air Beech E-185 in Birmingham, Alabama. Both aircraft were complying with air traffic control instructions which, in this case, were conflicting. The pilot of the Beech aircraft was killed.

Demands on our aviation staff have pushed completion of the runway incursion investigation from late 1985 to the spring of 1986 or beyond.

Wind Shear

In view of our numerous references in the past to weather problems, it is not surprising that the worst domestic aviation accident this past year took place during a severe wind shear occurrence. Extreme weather phenomena have plagued aviation from its inception, and accidents such as the one at the Dallas/Ft. Worth Airport in August involving a Delta L-1011 cause us to wonder if we will ever solve the problem. Despite increased training, alert systems and more sophisticated weather monitoring devices, pilots still can't seem to be able to avoid wind shear associated with thunderstorms.

The Dallas accident, as did many others before it, provoked renewed demands for the funds necessary to implement state-of-the-art detection technology. The Safety Board is on record firmly in favor of a priority program to purchase the doppler radar hardware for major terminal areas and to pursue aggressively research and development of the software programs needed to automate the radar data presentation.

Since 1970 wind shear has been identified as a cause or contributing factor in 17 accidents involving transport category airplanes. Six of these accidents were fatal and have accounted for 440 lives. These figures likely will be revised to include the Delta L-1011 accident when that investigation is completed, adding yet another 135 lives lost.

We are pleased that the FAA has contracted with an industry team comprised of the major transport airplane manufacturers, a major air carrier training department and weather consultants to develop an effective training program which would include video presentation, flight manual material and engineering simulator models which would be made available to all air carrier training facilities. The program is scheduled for completion by early 1987 and should have a significant impact on pilot awareness of the problem.

FAA Surveillance

Last year we discussed the Board's safety study of FAA surveillance of air carriers. Our initial plan was oriented toward identifying systemic surveillance problems by means of on-site surveys. However, the inspections conducted by GAO at the request of this and other subcommittees, as well as the findings of the FAA National Air Transportation Inspection (NATI) and the Safety Activity Functional Evaluation (SAFE) programs, identified a number of significant problems in the system. We have found during recent accident investigations that these problems still exist.

The FAA has established a blueprint for corrective action, and we believe that their plan can improve the surveillance system. However, this can be done only if their followup action is more vigorously implemented than has been the case in the past.

The Board has concluded that its resources would be used most effectively in a program designed to monitor closely and systematically the FAA's efforts to revamp the air carrier inspection program. To accomplish this, we will set up a formal liaison process with the FAA to arrange for two-way communications between our staffs so we can keep on top of their ongoing activities. We will provide the FAA regular feedback on the adequacy of their actions by documenting any future evidence of surveillance problems uncovered by our ongoing accident investigations. We will provide such data to FAA both through this liaison activity and by means of our accident investigation reports and safety recommendation activities.

We expect that this will be a long-term program which will continue into mid-1987.

Foreign Investigations

This past year was the worst in terms of overall fatalities in the history of aviation. Foreign carrier accidents tipped the scales as we witnessed the horrors of the Japanese Airlines B-747 crash into the mountains, the British Airtours B-737 accident at Manchester, England and the Air India B-747 plunge into the sea. And, in our own back yard, a U S. carrier crashed in Gander, Newfoundland, taking the lives of 248 U.S. service men and women. The Safety Board has participated extensively in all these diverse investigations, including the expenditure of $291,000 from our emergency fund to help salvage parts of the Air India B-747 from the Atlantic Ocean.

A one-of-a-kind Safety Board activity involved a rigorous mountain climb by one of our field investigators to the crash site in the Andes of an Eastern B-727 that went down on the first day of 1985 en route to LaPaz, Bolivia. The site was reachable only on foot, and we organized this expedition in the hopes of recovering the flight recorders to assist in determining what happened to that flight. Unfortunately, the expedition was unsuccessful due to the amount of snow which covers the wreckage year-round, and the cause of the crash may never be known.

The Challenger

After such an unusual year, the Safety Board once again has found itself in unchartered territory -- that of spacecraft investigation. At the request of the National Aeronautics and Space Administration (NASA) we have detailed several investigators to assist in the wreckage recovery and reconstruction portion of the investigation into the tragic shuttle accident. This assistance will be available to NASA as long as it is needed.

Rail Alcohol Rulemaking

While the Board's aviation workload was dictated by heavier-than-usual accident investigation activities in 1985, we were able to focus our efforts on longer range issues and objectives in the other modes.

For example, a high safety priority item on the Board's agenda for many years has been implementation of a rule to prohibit railroad employees from reporting to work impaired by alcohol or drugs. After untold hours of work by many safety professionals, the Federal Railroad Administration issued its long-awaited final rule in August 1985, which was scheduled to go into effect in November. The implementation date was delayed by a U.S. Court of Appeals "stay" that was vacated by a Supreme Court Justice in January 1986.

The Safety Board takes great pride in the accomplishment of this safety objective, and we believe its implementation and enforcement will be highly cost beneficial in terms of lives and property lost.

Railroad/Grade Crossing Safety

Responding to a long-standing objective to improve safety at railroad grade crossings, the Board has undertaken a study of passenger train collisions at railroad grade crossings. Our concerns are heightened by the potential for disaster posed by vehicles carrying hazardous materials colliding with passenger trains, and the high number of fatalities and injuries that continue to occur at grade crossings.

Issues currently under investigation include routing, driver behavior, audible warning systems and ground clearance. The study will be developed from 75 in-depth accident investigations involving passenger train collisions with motor vehicles.

New York Subway Fires

Safety Board concerns about the large number of fires occurring on the New York City Transit Authority (NYCTA) subway system prompted initiation of a special investigation that was completed in October 1985. Formulating an unprecedented "go-team" task force, we examined the issue of fire safety as it relates to track and structures, electrical equipment, car equipment, train operations, emergency response activities and data collection.

The resulting report accompanied a number of recommendations directed to the New York State Public Transportation Safety Board regarding actions the NYCTA should take to improve subway fire safety. We will be working both with the State Safety Board and the NYCTA to follow up on these recommendations.

Occupant Restraint Performance

A major Safety Board undertaking in the highway mode is a safety study of the performance of occupant restraints in survivable motor vehicle accidents. Despite increased government and private emphasis on the importance of seat belt use, there is surprisingly little real-world information on its performance. This effort is more crucial than ever in view of the increasing number of states passing laws to require seat belt use.

The study will be based on in-depth investigations of about 200 crashes in which at least one person was belted. It will be divided into two parts. The first part will address the performance of lap belts while the second part concerns the performance of lap-shoulder belt systems. The lap belt portion is targeted for completion in April or May, and the other is due by the end of 1986.

Heavy Truck Study

One of the most persistent and complex highway safety problems involves heavy trucks. The Safety Board has investigated many truck accidents over the years and issued numerous safety recommendations on truck safety and driver qualifications, licensing and training. In 1980 we completed a study in some detail on driver qualifications, recommending changes in the federal regulations as well as the National Driver Register.

In view of mounting concern about the dangers posed by heavy truck accidents, we initiated a safety study last fall on driver qualifications which will include a review of training, state licensing and federal regulations for interstate drivers. A second phase of this project will include in-depth investigations of approximately 150 accidents, focusing on operational issues such as fatigue, alcohol and drug abuse and, potentially, some issues of vehicle performance.

Schoolbus Safety

For the past several years, the Safety Board has been conducting in-depth investigations of shoolbus accidents, focusing on crashes involving large post-standard schoolbuses. More than two-thirds of the 60 cases we have investigated involve this type of bus. Safety Board field investigators have looked at all kinds of crashes -- rollovers, side impacts, frontal and rear collisions -- and, in contrast to past Board investigations, did not limit the investigations to crashes that produced fatal or serious injuries.

Analysis of these cases is underway. We will be looking closely at the question of the potential effects of occupant restraints in large and small schoolbuses. The final report and our recommendations are expected this summer.

Passenger Vessel Safety

The grounding of the U.S. passenger vessel Pilgrim Belle on a reef off Massachusetts last July prompted a two-day Safety Board hearing. The 192-foot cruise vessel ran aground on the second day of what was to have been a seven day cruise. The 94 passengers were taken aboard safely on numerous smaller vessels and there were no injuries.

Although the number of accidents involving large passenger cruise vessels and ferries is low, the Safety Board is concerned that the safety requirements are keyed to the gross tonnage of the vessels rather than the number of passengers at risk. The regulations as applied to tonnage have tended to reduce the manning requirements and lifesaving equipment carried, thereby increasing the probability of greater loss of life in a disaster.

For example, it is possible under certain circumstances for passenger vessels not to be required to carry sufficient lifesaving equipment on board to provide emergency flotation support for all of the embarked persons. In addition, reduced manning and licensing requirements had led to lower crew-to-passenger ratios. Consequently, fewer crewmembers are available to tend to passenger safety in any emergency, and less stringent licensing requirements for the officers has tended to reduce the navigational safety of the small passenger vessels.

The Safety Board is working with the Coast Guard to find solutions to these and other problems.

Pipeline Safety

An issue of increasing concern to the Board is the number and potential severity of pipeline ruptures due to corrosion. In April 1985 a natural gas pipeline explosion near Beaumont, Kentucky resulted in the loss of five lives. Three explosions were experienced by this same company in that state in the last ten months, and corrosion played a part in at least two of the three. This illustrates the need for improved cathodic protection, maintenance, casing monitoring and corrosion prevention.

In October the Board held a hearing in Houston, Texas to examine the problem of corrosion, including the use of encased pipelines. An analysis of the information gained at the hearing, as well as data collected in past investigations, will be included in the final report of the Beaumont accident. It is likely that recommendations regarding corrosion problems and encasement of pipelines will be addressed.

Hazardous Materials

In the recent past the Board has investigated accidents that raised concerns about the routing of hazardous materials and emergency preparedness. Currently under investigation is an accident that involved the release of a hazardous waste material on the Beltway in Fairfax County, Virginia. The information carried onboard the tank truck was inadequate in that there was no product-specific emergency response information to inform emergency response personnel about the composition and hazards of the material, nor could the emergency response personnel readily contact a responsible party to obtain the information.

Last year the Board investigated a release of a hazardous material in a railroad yard in North Little Rock, Arkansas. The investigation resulted in the recall and retrofit of more than 9,000 tankcars. In April 1985 the Board published a report on a recent railroad yard safety, hazardous materials, and emergency preparedness study that included recommendations to the railroads, the Federal Railroad Administration and the Federal Emergency Management Agency. These recommendations called for the railroads and communities to prepare for the problems they may face if confronted with a hazardous material release. In April 1985 the Board published the report of a release of hazardous materials near Clay, Kentucky and this report also recommended that the railroads and local emergency agencies prepare for problems associated with the release of hazardous materials.

Budget Request

For Fiscal Year 1987 the Board is requesting $21,430,000 which will fund 306 full time equivalent positions. This represents a ten percent reduction from our OMB personnel ceiling for Fiscal Year 1985 which was 340 positions.

Our Fiscal Year 1986 budget has been reduced from $22,300,000 to $21,341,000 as a result of the GRAMM-RUDMANN-HOLLINGS sequestration order, so cutbacks already are underway. Since this cut came after the year had begun and since it costs money to fire people and since we would like to avoid a reduction in force if at all possible, we plan to cut back to approximately 324 FTE positions this year by controlling our hiring. However, to maintain that level of employment and still balance the books at the end of the year, we have had to cut back substantially on items such as the procurement of laboratory and computer equipment. We cannot afford to sustain these kind of cuts beyond this year without longer term consequences on our effectiveness and productivity.

The Safety Board will make the necessary sacrifices in support of the efforts of the President and the Congress to reduce federal deficits. In order to cope with these budget and staffing cuts, we have and will continue to emphasize improved efficiency, productivity and cost savings. The Board also will continue to ensure that every dollar appropriated for its programs is spent to maximize the safety benefits achieved.

That completes my formal statement. I will be pleased to answer your questions.

GRAMM-RUDMAN-HOLLINGS

Senator ANDREWS. Mr. Chairman, the OMB ceiling of 334 this fiscal year is a reduction from the number provided by Congress. Furthermore, the funded employment represents a 14-workyear cut. How much of this cut is due to Gramm-Rudman-Hollings, as opposed to your current low employment levels?

Mr. BURNETT. Mr. Kissinger?

Mr. KISSINGER. The 14-position cut, I believe, does not take Gramm-Rudman into account in fiscal year 1987. We are reducing, because of Gramm-Rudman this particular fiscal year from 338 down to 324.

Senator ANDREWS. The Senate report stated that no employment reductions were to be taken that would adversely impact safety. Is the Board following that mandate?

Mr. BURNETT. Mr. Chairman, we have only reduced our employment levels because of Gramm-Rudman, and it was necessary to do that in order to be able to comply with the reduced appropriations provided after the Gramm-Rudman sequestration.

Senator ANDREWS. Well, do you feel that the work you need to do is being harmed? You put out 16 fewer safety recommendations and 150 fewer accident investigation reports in fiscal year 1986.

Mr. BURNETT. Well, yes, for fiscal year 1986 we will have a reduction in the amount of work product that we are putting out because of the Gramm-Rudman sequestration, and that will have to some degree a negative impact on safety.

Mr. KISSINGER. Mr. Chairman, to put that in perspective, our position for the past 3 or 4 years has been that we actually would need a level of 347 full-time equivalent positions to satisfy our statutory mandate. So anything below that would have some impact, some adverse impact, on safety unfortunately.

NTSB AUTHORIZATION

Senator ANDREWS. Well, are you going to change the statutory requirements in your authorization, then?

Mr. BURNETT. We are currently formulating our authorization plan. It is not our desire to change the statutory requirements, because we think we ought to be doing everything we are required by the law to do. But of course we are limited to the amount of money we have, regardless of what the mandate is.

BOARD MORALE

Senator ANDREWS. Well, there are other causes, too. The media has reported the loss of senior Board staff, and they go on to suggest a morale problem. How do you respond to that?

Mr. BURNETT. Mr. Chairman, we have had in the aviation area—and all of those articles that you may be referring to deal with aviation—we increased our attrition rate by two places last year over what has been the average since the last RIF. We have had an increase in attrition at the Board last year, but it was largely our administrative and clerical staff. It is becoming increasingly difficult to compete in the Washington market for clerical personnel.

We did lose two senior aviation-related management people. We have replaced the chief of the Aviation Accident Investigation Division with a person, Mr. Ron Schleede, who has far more aviation accident investigation experience than his predecessor. Our very unfortunate loss of Dr. Carol Roberts, who is probably the world's leading expert on flight data recorders, has been replaced with someone who is equally experienced in flight data recorder work but does not have the degrees that she has.

OMB BUDGET REQUEST

Senator Andrews. Why does the President's budget show 324 workyears?

Mr. Burnett. Excuse me? I am sorry, I did not——

Senator Andrews. Why does the President's budget show 324 workyears for fiscal year 1987?

Mr. Burnett. Mr. Kissinger?

Mr. Kissinger. That is OMB's estimate as to what the $21,430,000 would support. Unfortunately, we do not agree with them.

Senator Andrews. Well, can you provide for the record a comparison of your differences with OMB on personnel costs?

Mr. Kissinger. Most certainly.

Senator Andrews. And if the NTSB were funded for 324 workyears, what would be the budget request?

Mr. Kissinger. $22,603,000, sir.

Senator Andrews. Can you provide an additional column to the workload table on page 56 showing productivity at a 324-employment level?

Mr. Kissinger. Yes, we can. We would be happy to provide that.

[The information follows:]

SUMMARY OF WORKLOAD MEASURES—FISCAL YEARS 1985–87

	FY 1984	FY 1985	FY 1986	G–R–H FY 1986	FY 1987	FY 1987
FTE employment	331	336	338	324	306	324
Workload measures:						
Safety recomm. issued	405	393	410	394	360	394
Major acc. invest. rpts	40	45	47	45	41	45
Aviation	13	10	11	11	10	11
Railroad	4	11	12	11	10	11
Highway	9	6	6	6	5	6
Marine	9	12	12	11	11	11
Haz. mat./pipeline	5	6	6	6	5	6
Field and other accident investigation reports	4,029	3,605	3,750	3,600	3,300	3,600
Aviation	3,505	3,125	3,250	3,120	2,860	3,120
Railroad	173	176	183	176	161	176
Highway	236	235	245	235	216	235
Marine	57	45	47	45	41	45
Haz. mat./pipeline	58	24	25	24	22	24
Foreign investigation	51	45	47	45	41	45
Public hearings	10	10	10	10	9	10

SUMMARY OF WORKLOAD MEASURES—FISCAL YEARS 1985–87—Continued

	FY 1984	FY 1985	FY 1986	G–R–H FY 1986	FY 1987	FY 1987
Safety studies	8	9	9	9	8	9
Rulemaking reviews	22	45	47	45	41	45
Certificate and license appeals (closed)	549	647	760	730	670	730

RUNWAY INCURSIONS

Senator ANDREWS. The Board points out in its justification the critical problem of inadequate controller coordination. Two Northwest DC–10's almost collided last March in Minneapolis apparently because each had been cleared by two separate controllers. Then, despite FAA's efforts to improve controller coordination, an Eastern Airlines 727 almost collided with a helicopter cleared for takeoff at National.

What does this tell us about the numbers and experience of controllers?

Mr. BURNETT. Mr. Chairman, we have been very concerned about the number of near-runway collisions that have happened over the last year, and unfortunately they are continuing. We have investigated, I believe, over 20 of them at this point. We are not able to investigate all of them, so we have had to concentrate our efforts on trying to analyze the data we accumulated in the first investigations.

But we are finding some very disturbing facts and factors. In many of the instances we have had a situation where supervisors were not in their supervisory position backing up the controllers who were controlling traffic. The potential is that the supervisor could catch the miscoordination. In many of these cases we find the supervisor is, in fact, helping control traffic rather than doing supervisory duties. This has been one of our long-term concerns that we believe flow control should be used to limit the amount of traffic so that supervisors can get back to actually supervising instead of having to fill in to help work traffic.

Now many of these——

Senator ANDREWS. Well, what you are pointing out in this is a very damning indictment of what FAA is doing, because you are saying that they have to get back to flow control in order to have a safe operation.

Mr. BURNETT. We have always said that. We said that after our second——

Senator ANDREWS. Well, I know, but they are telling us that they can get along with fewer controllers, and everything is going along fine, and everything is safe.

Mr. BURNETT. Well, that is not true, Mr. Chairman.

Senator ANDREWS. In other words, you feel and your findings on the subject of runway incursions which almost caused 650 deaths in Minneapolis because of a lack of supervision, you are saying this is an ongoing problem and it is not being remedied?

Mr. BURNETT. Well, let me tell you how it relates to flow control in the situation in Minneapolis. There we had a light snowstorm, so they were having difficulty accepting the normal rates of traffic in Minneapolis——

Senator ANDREWS. You mean they do not expect light snowstorms in Minneapolis?

Mr. BURNETT. The flow control——

Senator ANDREWS. I mean, my God, that is the way we live up there.

Mr. BURNETT. The flow control center was attempting to adjust to it, and they asked the tower to only receive traffic; to use all of their capacity to receive aircraft, and none to depart.

As a result, this became a very congested situation on the ground. In other words, flow control apparently was not taking into consideration the kind of workload they were giving to the ground controller who was the least experienced person in the tower. And the ground controller soon had a situation where he had airplanes all over the airport and was trying to move them around and occupying the taxiway. Some of the taxiways had not been snowplowed, so they were closed.

So basically we have in this case a flow control decision complied with by the tower which may have complicated the situation. Certainly it is necessary to have flow control, but in this case they were responding to the pressures from the industry who wanted to get as many planes into Minneapolis as they could.

AIR TRAFFIC CONTROL

Senator ANDREWS. Well, that is dumping it again on industry. The point is, our testimony showed that industry is losing $1.5 billion a year in delays caused by inadequate supervision. Now if we are getting a $1.5 billion loss that is passed on to the traveling public because of not having enough controllers on the job, we have got a Department of Transportation that told this subcommittee 2 years ago that they needed 14,306 controllers and they still have not gotten to 14,000, and the percentage of experienced controllers is far under what you have just said we need and what everyone else has said we need.

How loud are you speaking out? Here you are showing us in your budget presentation that you are going to have a delay in completion of the Board's study of runway incursion. Do you not think this is an important enough problem to get on the ball with it and get these reports out so maybe we can put a blow torch on the tail of the FAA and the DOT that seems to spend more time and effort and talent worrying about selling Conrail than making flight in the sky safe?

Mr. BURNETT. I think it is a very important problem, Mr. Chairman. That is the reason we decided to do this package of runway incursion studies, even though it is not mandated. Unfortunately, we had to send the accident investigator who was in charge of compiling all that information to the DC–9 crash in Milwaukee. We just have not had enough people to cover our accident investigation responsibilities and keep what we planned to do in the areas of special studies this year.

Senator ANDREWS. When do you expect to have this study ready, then?

Mr. BURNETT. It is in the basic report drafting stage at this point, so we would hope it will be this spring. I never know, because if we were to have another two or three—if we had an experience this spring like we had in August and September of last year, I would have to reassess the entire situation.

Senator ANDREWS. Well, in other words you have got the facts together. Now all you have to do is the paper shuffling?

Mr. BURNETT. Well, it is a little bit more than paper shuffling. It is analysis of the facts, and writing the report that will justify the Board's conclusion and that will be strongly enough prepared and written to cause the FAA to make the changes that we want them to make.

Senator ANDREWS. Do you suppose we could have that report before the FAA hearing in early May?

Mr. BURNETT. It is quite possible.

Senator ANDREWS. Well, let me say that if we do not have it in time, then obviously you will have missed a pretty key deadline and you will not need near as much money for next year, because you will have missed the call early this year, if that is an incentive.

Mr. BURNETT. The money would not only be an incentive to us, Mr. Chairman, but we would like for you to have the information so that you can use it in trying to influence the FAA's decision.

Senator ANDREWS. Well, let me be totally frank. We have suspected on this committee for several years now that the FAA controller work force is not up to snuff, and that safety in the skies is being compromised. We get data that shows we are losing $1.5 billion each year because of slowdowns and all of that. All of us have sat on runways waiting to be cleared by air traffic control. That has happened to everyone. We have got the statistics of dollar loss.

What we need from you, because you are the National Transportation Safety Board, is the statistics that we can use to tell the FAA when they come up here why it is compromising the safety of America's travelers not to get with it and resolve this situation.

Mr. BURNETT. We do, Mr. Chairman, have outstanding recommendations to the FAA at the present time on flow control. It is very hard for us to monitor on a day-to-day basis. The flow control decisions are made on an hourly basis, and we are not in a position to assess what they are doing from hour to hour. At times I have the feeling that they do a real good job, and at other times there is an insufficient job being done.

But certainly we are going to be looking at how that has impacted the runway incursion area, and we certainly would hope and expect that we will have that report prior to your hearings with the FAA.

FLOW CONTROL

Senator ANDREWS. Well, you are nudging into something that is very intriguing. You are talking about flow control. You are talking about the fact that we are moving more flights than we can handle safely. What would you estimate the percentage cutback in flights that would be necessary to guarantee that kind of safety, to guarantee the proper kind of flow control to guarantee against runway incursion, given today's FAA work force?

Mr. BURNETT. I do not have any way of estimating that, Mr. Chairman.

Senator ANDREWS. Well, a 10-percent cut? A 15-percent cut?

Mr. BURNETT. It is not as much a matter of the total amount of traffic as it is leveling out the peaks and valleys and managing the peaks and valleys to suit the ability of the controllers to handle it at any one point.

Senator ANDREWS. That is right, but if you do not have the resources to level out the peaks and valleys, you are letting unsafe conditions exist. If you cannot anticipate it is going to snow in Minneapolis in the winter and have an adequate work force so that you get an extra controller or two in the tower when you have a snowstorm going on, you are not running a safe operation.

What percentage of traffic cutback would be necessary to give these safe conditions, in your off-the-top-of-the-head estimate?

Mr. BURNETT. Well, I just do not know, and I do not have the basis for making a top-of-the-head estimate.

Senator ANDREWS. But you are saying some cutback is necessary if we are going to have safe travel conditions.

Mr. BURNETT. No; really I am not. I am saying that the only way this system can work is with flow control, which is based not on the total——

Senator ANDREWS. But flow control is cutting back traffic.

Mr. BURNETT. At a particular time it may be. That does not mean that you cannot move the traffic later on. But of course that creates the problem that you are talking about of delays, and that has very serious economic implications. There is no doubt that the FAA has the capacity to do what needs to be done, and they have done it.

The question is, at any individual time are they susceptible to pressure from the industry and from people who are concerned about delays not to make the hardnose decisions that they need to make to protect the safety of their own operations.

Senator ANDREWS. Well, your Board has recommended that supervisors should be supervising controllers, not controlling traffic themselves. Do you recommend capacity limits at towers or centers at those times when supervisors are forced to control traffic?

Mr. BURNETT. The levels of traffic should be such that they can be handled by the staff that is available without taking the supervisor and placing them into a controlling situation.

CONTROLLERS

Senator ANDREWS. Well this is the testimony of an FAA supervisor himself. He said:

> The amount of time supervisors spent working traffic varies from facility to facility, but we agree that it takes away time that we need to spend on supervisory activities.

I spend 60 to 70 percent of my time working traffic. I need more time to be a supervisor.

Mr. BURNETT. Well, I think he is quite right. I am not surprised at the 60 to 70 percent that he is relating there, because we are finding in too many accident and incident investigations that the supervisor is actually controlling traffic rather than supervising.

Senator ANDREWS. But what does this say about flow control?

Mr. BURNETT. It says that they are not doing what we have recommended that they do.

Senator ANDREWS. In other words, you are saying that we have to cut back the number of flights in order to have a safe situation.

Mr. BURNETT. Or at least change the timing of them.

Senator ANDREWS. Well, when you change the timing, mind you we are talking largely about scheduled airlines. They are all on timetables. The FAA knows precisely when such and so flight is supposed to take off and is supposed to land, barring some weather conditions that can get things loused up, but flow control is there if you adapt your work force to the flow that is set out in those timetables.

The point is, they do not have enough supervisors, and they do not have enough controllers to handle the flow that is on those schedules, do they?

Mr. BURNETT. I think overall that is true. I think most of the time when we find a difficult situation, it has been complicated by weather. It is not one that has been prestructured in. But I think there has been a tendency on the part of the FAA to use supervisors as relief when they really do not have enough people to do the job that they set out for themselves, and for a long time they were using overtime.

We were very concerned about that because of the implications for fatigue of the air traffic controllers. It seems now that they have largely abandoned the use of overtime, but the sense I have from the investigations we have conducted is that they did not do that because they were trying to protect the controllers from fatigue, it was because of the budgetary implications of using the overtime when they did not have the money to pay the overtime.

Senator ANDREWS. Well, it is not only overtime. In the last two or three flights I have taken out of Fargo, ND, going into Minneapolis at 6:50 in the morning, I have had the pilot come on the horn and say, we will have a 20-minute delay due to air traffic control delay.

Mr. BURNETT. Oh, yes; I do, too.

DELAYS

Senator ANDREWS. In February, in March, in Minneapolis, MN, at 7 o'clock in the morning? My God, if you cannot get planes in and out of those airports at that time in the morning in decent weather? Day before yesterday I was coming out of Denver. There was a three-quarters-of-an-hour delay coming out of Denver to Dulles. Dulles is an open airport. No problems, and all that sort of stuff. Three-quarters of an hour due to air traffic control delay, the pilot said. I have not been on an airplane in the last 2 months that we have not gotten an air traffic control delay. Is this an efficient way to run an operation?

Mr. BURNETT. No, Mr. Chairman, but from a safety standpoint I must say that every time I am in a plane and they say we are delaying this departure for air traffic control reasons, I breath a sigh of relief because I am reassured that somebody is doing something right.

Senator ANDREWS. Well, absolutely.

Mr. BURNETT. What really disturbs me is when I get into one of these holding patterns in the sky, which I have some reservations about the less-experienced controllers we have today being able to handle. We had a near-collision because of a controller's handling of a holding-pattern situation over Georgia within the past couple of months. That is the situation that really bothers me from the safety standpoint. I also confess to being bothered sometimes by missing connections because of excess delays.

Senator ANDREWS. Well, I am always totally willing to go along with the air traffic control delay because it is for my safety; but I also have to be aware that when they announce an air traffic control delay they are telling me as a passenger, and more importantly as the chairman of this committee who has listened to this kind of testimony, that our air traffic control system is saturated. It simply cannot handle extra flights, even at 7 o'clock in the morning out of Fargo, ND. It cannot handle them in the middle of the afternoon out of Denver. And that means that safety is being compromised.

You would think that in 90 percent of the instances that air traffic control hold would not be on if we had adequate supervisors. And when you say you are concerned not only about holding patterns, but also runway incursions on the ground, and when you say that the answer is some type of flow control which is cutting back the number of flights, then the next thing we have is: Are we 10 percent overloaded? And should be put an emergency cutback of 10 percent on all airplane flights in this country in order to get a safe system until the Department of Transportation pays attention to this growing problem and addresses it in a way that has to be addressed?

This in essence is a study that you are turning out, is it not?

Mr. BURNETT. Well, we would not be able to answer that question for you. We are looking at runway incursions which has a whole package of issues. I mean, many of these do not relate at all to incursions.

[NOTE.—The Safety Board will submit to the committee its runway incursion special investigation report prior to the Federal Aviation Administration's [FAA] appearance before the committee as requested. However, it should be noted that this investigation will focus primarily on staffing problems, with particular emphasis on the role of supervisors.

In view of Chairman Andrews' expressed concerns with the problems related to flow control, the committee also will be interested in reviewing the Safety Board's comments of a recent GAO study of the air traffic control system which will be completed in the near future. A copy of these comments will be provided to the committee prior to its May 8, 1986 FAA hearing.]

Senator ANDREWS. You said incursions, but then you went off into this holding pattern business which bothers you, and the fact that we had some near misses in holding patterns.

Mr. BURNETT. It is the Board's position and has been since I suppose at least our second air traffic control study, that it is much better to hold aircraft on the ground until you are sure that you are going to have an opportunity for them to land at their destination, and that the air traffic control system is going to be——

Senator ANDREWS. Absolutely. But to hold on the ground when you have got too many of those, then you begin holding in the air——

Mr. BURNETT. That is right.

Senator ANDREWS [continuing]. Which you then told us is unsafe.

Mr. BURNETT. I do not think that is a good idea. It is inefficient, and it creates additional problems to the air traffic control system.

Senator ANDREWS. But we are seeing more and more of that, are we not?

Mr. BURNETT. Well, I think it comes and goes at least from the sense that I have from my own travels. Occasionally you will see that, and it seems to kind of come in spurts.

Senator ANDREWS. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

I note that Senator Byrd is here and has a pressing schedule, and inasmuch as I am going to stay on for awhile and you have the Budget Committee, Senator Byrd, I will yield to you.

Senator BYRD. Well, thank you, Senator D'Amato. You are mighty nice to yield to me. I hesitate to press ahead at this moment. Why do you not go ahead, and I will wait.

CONTROLLER WORK FORCE

Senator D'AMATO [presiding]. Well, thank you, Senator.

Let me pursue Senator Andrews' questions on the air safety situation. How many additional controllers do you believe we need now to handle the volume of traffic that exists?

Mr. BURNETT. The Safety Board has no capacity to make that analysis for the Department of Transportation. It has been our position all along that the system can be operated safely. This system as it is structured now can only be operated safely if we have adequate levels of flow control. And what can be handled of course differs from day to day according to weather and according to the availability of their staff. If they have sickness——

Senator D'AMATO. Does it not seem rather obvious that there are not sufficient controllers, given the remarks which you made just a few minutes ago in connection with the fact that we have now gone from a situation where there was heavy dependence upon overtime, to a dependence upon the supervisors doing more of the actual work and less of the supervising? Does that not indicate——

Mr. BURNETT. Oh, yes, quite obviously. I think if they had all the people they needed, they would not be having the supervisors work traffic.

Senator D'AMATO. So, they do not have sufficient people.

Mr. BURNETT. Oh, no. They do not.

Senator D'AMATO. You do not feel that this is in your domain to do something, or speak out, about that?

Mr. BURNETT. We certainly do, and we have spoken out about it. We have made recommendations to the FAA ever since our second air traffic control study that flow control is the only way they can manage their system, and that they have to use it, and that they have to use it specifically in order to keep from having to use their supervisors to control traffic, and in order to keep from having to rely on overtime, extensive overtime, and the resulting fatigue of the air traffic controllers in order to handle the traffic levels that they impose.

Senator D'AMATO. So, you are not satisfied with the levels at this time, are you?

Mr. BURNETT. Oh, no. But I have no way of knowing how radical a change we would have to make, nor in fact how good a job the FAA is doing in any individual situation. We cannot monitor that.

TETERBORO MIDAIR COLLISION

Senator D'AMATO. What is the status of the Board's investigation in regard to the Teterborough crash?

Mr. BURNETT. We have just completed 2 weeks ago or 3 weeks ago, the hearing in the Teterborough crash. The vice chairman presided over that hearing. We have developed several issues that deal with the effectiveness of the air traffic control situation in that hearing, and we are finishing up now our investigation and preparing to begin the technical analysis.

Senator D'AMATO. Well, what are your preliminary conclusions?

Mr. BURNETT. Well, Senator, we do not enter into preliminary conclusions. We sometimes talk about issue areas that we are looking at. There are issues about the effectiveness of the FAA's internal communications system which would have given the controller in that accident scenario an advance notice of the presence of one of the aircraft which he did not have until the aircraft was almost at the tower.

There are also issues of the flight strips and an issue of how the controller handled the individual flight. He made a mistake in his wording to them. He said east instead of west, as I recall, and that may have contributed to the confusion on the part of the pilots.

Of course we are also looking at pilot performance issues in the course of that investigation, because it was ultimately up to the pilots to maintain their separation. In this case we may have an ATC system that misled them in the process of doing that.

NYCTA SUBWAY FIRES

Senator D'AMATO. In response to the recurrent subway fires on the New York City Transit Authority System, the Safety Board conducted an investigation and issued a report in October of last year. One recommendation was made to the city about the fire department and the cooperation with the New York City Transit, and I think there were a number of other recommendations, some 14 in all to develop an action plan.

Has such a plan been developed?

Mr. BURNETT. Such a plan is in the process of being developed for the New York Public Transportation Safety Board. They are going to have an ongoing monitoring of the compliance by the New York City Transit Authority with the plan that they impose, and they are using the Safety Board recommendations as a basis for that.

Do you have anything to add to that?

Mr. KISSINGER. It is my understanding that they submitted a plan to the New York State Transportation Safety Board and they have not yet approved that preliminary plan.

Senator D'AMATO. I was going to say, How many of these recommendations have been implemented? You have indicated they have suggested a plan. Will you conduct a followup investigation to determine the level of compliance with your recommendation?

Mr. BURNETT. We will follow up on the compliance with our recommendations, Senator. We do not go out to determine compliance by our own investigation. We basically react to the information that is communicated to us by the agency to which the recommendation is directed. If they say they have done it, we usually accept that.

Senator D'AMATO. Well, let me put it in a different way, then. I would appreciate your review to determine the level of compliance with your recommendations. Do you have any problem with that?

Mr. BURNETT. Oh, we always—we certainly can provide you with the level of compliance with our recommendation because we evaluate each recommendation and follow up on it. In this case we are hopeful that we will be able to use the New York Public Transportation Safety Board for their monitoring to extend our capabilities, because we have very limited capabilities in the area of public transportation and rapid rail transit.

Senator D'AMATO. I would be deeply appreciative if you would furnish the committee with the information by following up, whether it is with the New York State Board, or whether it is by sending someone down. It would seem to me it would not take a very long period of time, and it would not take a great deal of manpower, to look into whether these recommendations have been undertaken.

Mr. BURNETT. Certainly.

Mr. KISSINGER. We can provide that almost immediately.

[The information follows:]

An action plan was submitted by the New York City Transit Authority [NYCTA] to the New York State Public Transportation Safety Board [NYSPTSB] on November 7, 1985. This action plan contains NYCTA's proposed implementation of the safety recommendations made by the National Transportation Safety Board to NYCTA. The NYSPTSB advises they are completing their review of this action plan and will furnish their response to NYCTA the beginning of June 1986. The first scheduled update of the action plan is then scheduled for July 1, 1986. Within that update, NYCTA is to provide an accounting of the progress made in implementing those recommendations. We will be happy to share with the committee a copy of the action plan as soon as it is received.

Senator D'Amato. Thank you.

Senator Byrd.

Senator Byrd. I have a statement here by Senator Lawton Chiles, who is the ranking member of the committee, and I ask unanimous consent that this statement may appear in the record, if the distinguished Senator from New York has no objection, immediately following the statement by Chairman Andrews.

Senator D'Amato. Certainly.

Senator Byrd. I thank the Senator.

Your annual report, Mr. Burnett, "Safety Information for 1985," indicates, does it not, that 1985 was the worst year for air traffic accidents since 1977. Is that accurate?

Mr. Burnett. I believe that is correct, Senator.

FAA SURVEILLANCE

Senator Byrd. One of the major responsibilities of the National Transportation Safety Board is to provide oversight of other transportation agencies through evaluation of their safety programs, and to make recommendations for corrective action. There have been a number of reports recently such as the FAA's recent proposal to impose a record $9.5 million in penalties on Eastern Airlines for violations of FAA maintenance regulations.

Also, just a few days ago an Eastern Airlines jet lost a landing gear during landing.

Have any investigations been done by you or your agency into the number and quality of maintenance checks done by the Federal Aviation Administration on commuter, charter, or regularly scheduled commercial carriers?

Mr. Burnett. Yes, Senator. In fact, in the past year we have had major FAA surveillance issues, either operational or maintenance, in seven of our major investigations. Four of those have been completed and we have three ongoing. I am not counting within that three the Gander, Newfoundland investigation, which is a Canadian investigation, in which we have FAA surveillance issues.

I might give you some of the things that we are observing even in those investigations that we have ongoing. For instance, last month I held public hearings in Milwaukee in connection with the September 1985 Midwest Express DC–9 crash. In that situation we had a failure of the right engine, and there is a possibility that there was a loss of power in the left engine. In fact there was, but it may have been induced by the accident scenario rather than being a cause.

It was very necessary then that we look at the FAA surveillance of the maintenance activity that took place in relation to that engine. What we found is that we had an engine that had had a preexisting crack and had been in a maintenance facility for overhaul, and had nickle-plating over the crack, and there was some indication that the crack had not been discovered during the overhaul.

We looked at the FAA surveillance of the overhaul facility in Miami, a facility called Aerothrust. We found in the course of the investigation that the FAA surveillance effort was not very effective, because they do not have the manpower to do it very effectively. In my opinion—this is not the whole Board speaking right now, but only me—they had given only cursory examination to that facility. This was a JT8B facility which of course deals with Pratt & Whitney engines, and when Pratt & Whitney came in at the request of the facility and did a shop review they found problems that were probably violations of the FAA regulations.

The last witness we had at the hearing was a gentleman who heads that program for Pratt & Whitney, and we asked him, why didn't you tell the FAA you had this problem? And he said, well, Aerothrust was better than most. And, he said, I have not been into a facility in the last 5 years which would pass close FAA scrutiny as to calibration of instruments.

Now the calibration of instruments is very important in detecting the cracks. So I think we have developed some very good information.

We have also looked at a couple of commuter airlines—and this is not maintenance now, it is operational issues that are key in both of these—one is the Bar Harbor accident in Maine, the Samantha Smith accident you will recall; and the other is the one down near Harrisonburg, VA, Henson Airlines.

In both of those we found that there was virtually no surveillance worthy of the name. Again, this is my characterization, not the Board's, but the vice chairman reported the same thing. She presided over the Bar Harbor hearing; I presided over the Harrisonburg one. No surveillance worthy of the name.

In Harrisonburg they had one operations inspector who had been asked over a several-month period to do the paperwork for the certification of Henson Airlines' new plane, the Short Brothers Plane that they were buying. So during that time he provided no surveillance other than going back and forth from Baltimore to Salisbury on the plane. So he would look over the pilot's shoulder, of course, in the process of doing that, but other than that there was no surveillance for that period of time.

In both of these cases we found there had been great increases in the number of air carriers that the relevant office had to oversee, but there had actually been decreases in staff. This was particularly true with the Bar Harbor situation.

So, in fact, we do not have the surveillance system out there that is supposed to be there. And, Senator, I have been very deeply involved in FAA surveillance issues for some time. When I was here last year at this hearing, we discussed some of the same issues. At that time I was not prepared to say that the primary problem was that the FAA did not have enough people. In fact, I believed that their primary problem was that they were not making good enough use of the people they have. Up until that time, from the accidents we had seen, that was the case.

What I see now, however, is that in many of these cases we have very dedicated people who just simply cannot do the job that they are being asked to do. And there is no strategy on earth that will stretch the number of people they have to give thorough surveillance with the task that is being assigned to them.

INSPECTOR WORK FORCE

Senator BYRD. So your observations of last year still prevail, at least with respect to the first of the two points you made. Namely, that there is not enough personnel, I gather, but that you have changed your opinion with respect to the proper use of such personnel as they have. Is that accurate?

Mr. BURNETT. Well, they are becoming more aggressive, and I think that was the problem I had with them before, that I did not think they were aggressive enough. But to give you an example, in the case of the Aerothrust principal maintenance inspector who had responsibility for the Aerothrust facility in Miami, even after he learned that Pratt & Whitney had this document that may have suggested that there were serious problems with that facility, he did not ask for a copy of it. He did not ask for a copy of it until he was called to testify before the Safety Board's hearing, and that was weeks if not months after he became aware that such a document existed.

Now probably if Pratt & Whitney turns all these things over to the FAA nobody will ask them to come in and do the shop reviews anymore. So that might even overall have a negative impact on safety. But it is rather incredible to me that someone who is responsible for inspecting a facility like that, and he knows that a document exists which might even be embarrassing to his work, would not even try to get a copy of it. And he testified that he had no interest in it.

Senator BYRD. Had no interest in it?

Mr. BURNETT. Well, that is a liberal paraphrase of his words. He did not pursue it enough to ask for it.

Senator BYRD. And who is this individual? Who is this individual?

Mr. BURNETT. I cannot give you his name. We could supply that for the record.

[CLERK'S NOTE.—The information was provided and is on file.]

Senator BYRD. What was his position?

Mr. BURNETT. He is a principal maintenance inspector in the Miami Air Carrier District Office, I believe. He is the same person, Senator, who was responsible for Eastern Airlines at the time that they left the three O-rings off of the airplane, and that was one of the investigations in which I became very interested in the FAA's surveillance, because I believed they had not been very aggressive in the pursuit of surveillance in that area.

They had plenty of advance notice. They knew they had a problem with these O-rings being properly checked and replaced, and they had several planes that had to have unscheduled landings, engine shutdowns, and yet he testified that he had never gone out on the line to see what the mechanics were doing.

He kept telling me in response to questions, "Well, I talked to the vice president about it."

Finally, I had to tell him, "Vice presidents do not put on O-rings."

That is the kind of example of the lack of aggressiveness on the part of the FAA, but I think it is becoming very clear that without more people than they have it is hard to expect them to be very aggressive.

Senator BYRD. Well, I am not sure I would agree with that.

Mr. BURNETT. To give you another example—I do not know whether you want to hear me say any more or not—but in the Midwest Express crash in Milwaukee, the principal operations inspector who is responsible for that airline—and the airline only flies DC–9's—is not qualified in the DC–9. She has responsibility for overseeing their training programs and the actions of the pilots. She had requested training and it had not been provided to her.

She testified that she did not think it was unusual anymore for some of the smaller air carriers to be surveilled by people who were not qualified in the particular aircraft that they were flying. I do not think it was her fault that she had that situation, but it is certainly not something we are comfortable with.

Senator BYRD. Well, that is incredible that this individual about whom you were talking a moment ago would take the attitude that he takes and that something is not done about it. What recommendations did your agency make in that instance?

Mr. BURNETT. In the instance of the Milwaukee accident, which we still have under investigation, we have not yet made recommendations.

Senator BYRD. I have reference to the Florida——

Mr. BURNETT. Oh, the Eastern O-rings situation?

Senator BYRD. Yes.

Mr. BURNETT. We made recommendations after that Eastern near-ditching where they left the O-rings off that dealt with FAA surveillance. Among the things we said is they need to do a better job of using the reports that they have of problems, because they had reports of all these problems, in analyzing what the problems are and in following up.

They had pointed out to Eastern that they had a problem, but they did not follow up to see that anything was done about it. So we made recommendations in connection with that.

Senator BYRD. But what about the individual himself?

Mr. BURNETT. Well, after our hearing, after the Eastern incident, he was reassigned. I do not know for what reason, but he took another position. Then he subsequently came back to Miami. He is not a principal maintenance inspector for a major airline right now, but he—I mean in his defense I think that the FAA would argue, and with some reason, that they ought not to ask for those shop reports that Pratt & Whitney does simply because that will dry up. They would no longer be done. It is kind of like asking to make public the name of an informant. If you did that, you would no longer have an informant, so you would not have any long-range safety benefits.

What worried me about it was the fact that, knowing that it existed, knowing that it might be the source of some information, he did not even seek or ask for it, and he did not seem to have even gotten to the point of making a decision that he should have asked for it.

Senator BYRD. Well, I would not be overly concerned about the possible drying up of reports. I think it is unconscionable that an individual like that is allowed to be in that position. Reports can always be required and asked for, and if you do not get them one way, we will get them another.

INDUSTRY COOPERATION

Mr. BURNETT. The particular types of reports that we are talking about is—you see, the facilities that overhaul Pratt & Whitney engines asked Pratt & Whitney to come in and do these shop reviews. Pratt & Whitney does not have any right to come in there and do them; it is a matter of request. And if they were to be giving them to the FAA, their contention is, as well as the FAA's contention is that no one would ask them to do them anymore. And since Pratt & Whitney is the only one who is doing the most effective surveillance now, they are doing a much better job of surveilling, even though they do not have any authority to impose what they find, than the FAA is, it would be a shame to have that messed up at least until you get something better on the Government side in place.

Senator BYRD. What is your feeling with regard to whether maintenance has suffered considerably as a result of deregulation?

Mr. BURNETT. Senator, I do not think it is clear that it has. I think a lot of people cite what has recently been found at Eastern, and I am not sure that that is Eastern getting worse or the FAA improving. In other words, that may have been a circumstance that has existed for—that did not come about as a result of deregulation. I have no way of resolving that issue.

I think there has been a lot of attention to the issue of potential cost cutting on maintenance between the airlines now that they are competitive, and I do not think that we have an adequate surveillance system in place to see that they do not do that.

I think what is perhaps not getting enough attention is on the operational side. Not only do we not have adequate surveillance there, but the FAA regulations on the operational side are only of a minimal nature. Just a few years ago before we got into the deregulated environment, all of the major carriers were operating at a training and experience level that were far in excess of FAA regulations.

Now you have competition beginning to bring us down to where we butt up against FAA regulations, and we find the FAA even giving waivers from some of their training requirements to the airlines if they supposedly indicate a certain level of proficiency at their training.

So I think the problem with that is that a lot of the operations inspectors—and we found this for instance in the Henson Airline investigation—that the principal operations inspector was uncomfortable with the situation he had, but he did not feel like he had any basis in the regulations to do anything about it.

So I do not think that anybody really knows exactly what we need to require in order to keep the kind of operational quality that we have traditionally had in order to impose it from a regulatory standpoint. We do not even know enough to improve the regulations right now, and if we do a 3-year study it is going to be too late to meet the challenges that are facing the aviation environment right now.

So I think the most serious problem is on that side rather than the maintenance side.

Senator BYRD. Well, what are we going to do about it? We have got a serious problem there we know something about apparently, and we have got possibly a serious problem on the maintenance side that we do not seem to know enough about.

Mr. BURNETT. Well——

AVIATION DEREGULATION

Senator BYRD. Let me interject. I want to talk about this guy. I kick him around every chance I get. He is my favorite kicking boy. Every time I go to West Virginia I kick him around, and on my way back to Washington I kick him around. And I think he ought to be kicked. That is, Robert C. Byrd. Do you know him?

Mr. BURNETT. Yes, Senator.

Senator BYRD. Well, do you know why I kick him around? Because he voted for deregulation of the airlines. I have been sorry every since. The immediate reaction, the followup to his vote, was that some of the airlines pulled out of West Virginia. They did not give a hoot about West Virginia; but while there was regulation they gave a hoot. We had airports and citizens, who had contributed and who had paid for the improvements of their airports, and these airlines did not care anything about that.

Once there was deregulation, they left. They left us without much service. Now if you want to go to West Virginia to attend a dinner you have got to give 2 days to it. You cannot come back to Washington after dinner.

Mr. BURNETT. Senator, I suspect——

Senator BYRD. And that is just part of it. That is just part of it. The fares almost immediately doubled, then tripled, and I think they have quadrupled. On television every night I see—I do not get home in time to watch the news, but my wife tapes the news—and just recently, well, from time to time I see these advertisements for cross-country flights at $90, or $99, or whatever. The competition is there. I suppose that deregulation of the airlines did accomplish that.

The trouble is, the competition that we see makes me wonder who is paying the bills. Then the next time I get a reservation to West Virginia and return, I am reminded of who is paying the bill—not Robert C. Byrd, except through his taxes—the taxpayers. The taxpayers. When Members have to go back home in serving their constituencies, they do not go at their own expense. They are paid by the taxpayer.

So for the $99 fares, or whatever they may be across the country, West Virginians and other people in rural States, as a matter of fact all over the country, the taxpayers are picking up a lot of this tab. But I am so sorry that I voted for deregulation of the airlines.

Now that is just part of it. Not only has the service diminished, but also the fares have doubled, tripled, quadrupled, because we have got to pay. We have got to pay for the losses that airlines are suffering as a result of that cutthroat competition. That is just part of it.

I am concerned about the maintenance, and about the safety. I just cannot be sure that the airlines are not cutting the corners on maintenance in order to try to at least break even—and some of them are not doing that—as a result of this cutthroat competition.

Now having said that, and Robert C. Byrd having made a public confession—and I have made this many times—I am sick of my vote. I am just so eager, hoping that the Commerce Committee or some committee will report out a bill to reregulate the airline.

Senator D'AMATO. If I might——

Senator BYRD. I just cannot wait. I want to cast the first vote, even though my name is not the first in the alphabet, I want to be the first——

Senator D'AMATO. If I might interrupt the distinguished minority leader——

Senator BYRD. If I could just finish my sentence?

Like Nathan Hale who only had one life to give for his country, I only have one vote to give to mine, but I would like to cast it.

Yes?

Senator D'AMATO. I think what the Commerce Committee might give us an opportunity to vote on is a sports bill, first. This Senator happens to think that that would be precipitous, but having said that, I am due on the floor at 11 o'clock, and I am wondering if I might not be able to impose upon the minority leader and ask him if he could not chair the balance of this hearing.

Senator BYRD. The distinguished Senator does not impose on me. I have imposed on him, and I apologize.

Senator D'AMATO. Well, I thank the chairman for his——

Senator BYRD. I will keep kicking myself in silence for the moment. Go ahead, please.

Senator D'AMATO. Well, I have no further questions. If you have any further questions, we have another panel to move on to. And, if you wish, and if you have the time, I am asking you to chair the balance of the hearing.

Senator BYRD. Very well. I will be glad to, if it does not last too long, but I thank the distinguished Senator.

Senator D'AMATO. I thank the Senator from West Virginia.

[Pause.]

SURVEILLANCE SYSTEMS

Senator BYRD [presiding]. Well, in testimony before a Senate subcommittee in November 1985 a representative of the Regional Airline

Association—before I get into this prepared text, what can we do to be better assured that the airlines are not sacrificing safety because of this cutrate competition that they are engaging in, and undoubtedly losing money?

Mr. BURNETT. We need a better surveillance system. I will give the FAA this: They have done a lot of internal analysis, and they have reports that I suppose are now public that have pretty well identified their problems in terms of their surveillance system. They have not yet moved to correct them, they have not pulled any punches internally with the plan that they have to do that.

They have of course requested—or at least they keep saying that they are going to have money for additional surveillance personnel. I doubt very much whether the additional personnel that they have scheduled will be enough, but probably they are moving as fast as they can given the limits on the number of people out there who are qualified to do their work and their limited ability to train them. In other words, they are limited by their ability to rev up to what they need to be.

We have to realize that between 1978 and 1984 they lost about 30 percent of their flight standards inspectors staff. At the same time, they had about a 250-percent increase in the number of carriers they had to surveil. So they are a long way from a system which I think will give us a guarantee.

In other words, I have no problem with deregulation as long as we have the ability to see that everybody plays by the rules and that we have good, strong safety rules. The problem is right now we do not have that ability. Some of them may not be, and I do not think the whole industry should be painted in that regard, but there is definitely a possibility that some may not be.

I think the FAA is becoming more aggressive in its enforcement actions, and we are seeing that. FAA enforcement actions can be appealed to the NTSB. So we are seeing a big increase now in the number of cases that they are bringing, and they are, I think, bringing more perhaps marginal cases, because more of them are being opposed and fought than they previously were. They are a long way from being where I think they need to be, but they have outlined how they need to get there.

AIRLINE MAINTENANCE

Senator BYRD. What impact are these airline price wars having on airline maintenance budgets?

Mr. BURNETT. Well, I think the FAA would have to answer that, because they are the ones who immediately surveil them. We only look at them in cases where there is an accident, which is rather, no pun intended, a hit or miss situation from our standpoint. So I cannot tell you whether there has been an overall decrease in the amount of money they spend, or a decrease in the amount of the percentage of their resources that they spend on maintenance.

Senator BYRD. In testimony before the Senate subcommittee in November 1985 a representative of the Regional Airline Association testified that pilot turnover is not a safety issue. He was arguing that, although regional airlines or commuters have been losing pilots as a result of recruiting by the major airlines, pilot attrition did not have an effect on the safety of the commuter airlines; rather, pilot turnover is a cost issue. That is, the cost to train and to qualify new pilots.

Do you agree that pilot turnover at commuter airlines is not a safety issue?

Mr. BURNETT. Most emphatically I do not. I think it is a major safety issue. We have seen it in the—again, the hearing I held a couple of weeks ago in Harrisonburg on Henson Airlines, they had had a lot of turnover. The major airlines were raiding them for their people. While they were having all this turnover, they were increasing the number of pilots they had to have, because they were increasing their flights. So they were hiring much less experienced people than they originally had, and a couple of these were involved in this accident.

The person who did the flight check for the captain involved in the accident had noted that he ought to have a recheck soon. We have some indication that he might have actually believed that he should not have been hired, but was persuaded to do so. We are still trying to resolve those issues in some depositions.

The copilot was hired at a much lower level of experience than almost any other, with maybe one exception, any other person that had ever been hired by that airline. It was clearly a situation where they were reaching the bottom of the barrel and trying to find anybody they could get. Although I did not hold a hearing on Bar Harbor and am not as immediately familiar with the details of that accident investigation, I suspect we are going to see some of the same sort of low experience levels.

I think the issue of money—they're saying it's a cost issue—is very important safetywise, because if you have an unstable work force you cannot afford to spend a lot of money in training. What we would like to see the airlines do is go beyond what the FAA requires of them. And who is going to voluntarily do that if you are not expecting to keep your people but 2 or 3 or 6 months, or a year and a half, which is I guess the more recent—you see a lot of these people leaving the commuters after maybe a year and a half to move on elsewhere.

[Pause.]

Senator BYRD. The vote will be delayed to 11:30. That will give us a little more time. I kind of like this. [Laughter.]

Mr. BURNETT. Senator, this is the first time I have ever testified before anyone who had the power to control the timing of a vote. [Laughter.]

I kind of like it, too.

Senator BYRD. I hope the West Virginia press will pick that up. [Laughter.]

PILOT TURNOVER

I am trying to work my way through these questions in a way that will allow me to make that rollcall vote.

On November 12, 1985, Patricia Goldman, Vice Chairman of the NTSB, spoke to the Regional Airline Association at their fall meeting and said this: "Since experience shows us that 85 percent of accidents are caused by human error, an issue of critical importance is pilot experience and training. The low number of hours"—meaning pilot hours—"we are seeing in our accident investigations does reflect a serious problem in the industry, one which is getting larger. And that is the enormous rate of turnover among the pilot population."

Now given the fact that we know that pilot turnover is becoming an important safety issue, would you comment on the report that appeared in the March 17 issue of U.S. News & World Report entitled "Sellers Market for Pilots."

The story points out that:

> Major airlines are hiring experienced pilots away from commuter airlines. About 40 percent of the aviators joining trunk airlines come from the 200 regional and commuter lines. To find replacements, small carriers now accept students who have not completed college, raised age limits sometimes to age 50 for new hires, and lower eyesight standards and flight time requirements.

Do you have information that would confirm or refute this report?

Mr. BURNETT. I have no information that would refute it, and some of the things as I have already mentioned to you I know to be true. I cannot confirm all of the individual points there about lowering of eyesight standards and that sort of thing. We have not observed that in the course of accident investigations to my knowledge, but certainly we are aware of their taking less experienced people. Obviously the point is their management is not comfortable with what they are doing.

COMMUTER AIRLINES AND RECORDERS

Senator BYRD. I noted in connection with the Henson crash about which you have spoken earlier in reading the newspaper reports, I note that there is no little black box or cockpit and flight data recorders. Am I correct in that, in the commuters?

Mr. BURNETT. Unfortunately, Senator, that is correct. The NTSB has been urging the FAA for a number of years now to correct that problem. To give you a good example, we just recently had a Bandeirante accident up in Michigan which the newest member of our Board, Dr. John Lauber, who is sitting in the audience, went out to investigate. Even in commuter aircraft we are beginning to see electronic displays of information instead of traditional instruments.

We cannot look at the wreckage and look at instruments anymore in the latest-technology aircraft. If we do not have the flight data recorders and the cockpit voice recorders to give us the kind of information that we have in major carrier aviation, there is no way that we can keep pace with commuter aviation.

We have, for instance, the Provincetown-Boston Bandeirante accident that we have been trying to resolve. It is our oldest outstanding report, and it is very difficult to resolve. If we had a flight data recorder and cockpit voice recorder, we may have had it done a long time ago and identified the problem.

So it is certainly something that we are considering in the course of our reauthorization legislation in asking the Congress to mandate that, because the FAA has not been willing to do it at this point.

Senator BYRD. I wonder why the FAA will not do that?

Mr. BURNETT. Well, there is industry opposition to it, Senator.

Senator BYRD. Well, whose side is the FAA on? Are they on the side of the airlines, or on the side of the traveling public?

Mr. BURNETT. More so than we, I guess pressure tends to gravitate toward them and leaves us alone, so that somewhat changes our perspective of things.

Senator BYRD. The installation of such equipment would be an improvement in commuter airline safety. Do you agree with that?

Mr. BURNETT. Certainly. I made a speech on that to the Regional Airline Association a couple of years ago. I did not get much applause.

Senator BYRD. Do you think it may have been because you were before the wrong crowd?

Mr. BURNETT. Well, I think it was before the right crowd. I never have been one to go tell people what I think they want to hear, and obviously in that case I did not.

SUBMITTED QUESTIONS

Senator BYRD. I understand there is another agency. I have further questions that I will submit for the record along with questions from the other Senators.

All right, thank you very much.

Mr. BURNETT. Thank you.

[The following questions were not asked at the hearing, but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

GRAMM-RUDMAN-HOLLINGS IMPACT

SENATOR ANDREWS: The justification reflects an employment cut of 14, or 4%, as a result of Gramm-Rudman-Hollings in FY 1986. Was this done at Office of Management and Budget's (OMBs) instruction? Will furloughs or reductions in force be necessary to achieve the cut by September 30? What is the Board's current full-time equivalent employment level?

ANSWER: The OMB did not specify the amount of the employment cut which would be required as a result of the Gramm-Rudman-Hollings sequestration in FY 1986. However, because the Board's budget is primarily devoted to personnel costs, the reduction of 14 reflects the number of positions which will have to be cut to accommodate the sequestering of $959,000 under Gramm-Rudman-Hollings. We do not at this time believe that furloughs or reductions in force will be necessary to achieve the cut by September 30, since the Board's current full-time equivalent employment level is approximately 324 already.

SENATOR ANDREWS: Why are 7 fewer workyears shown for FY 1986 for accident investigation?

ANSWER: The FY 1986 Gramm-Rudman-Hollings sequestration of $959,000 required a total reduction of 14 workyears from the FY 1986 appropriated level. The budget reflects this cut across all activities on a pro-rata basis. The accident investigation function's share of this reduction is seven workyears.

SENATOR ANDREWS: It appears that the Board met the FY 1986 Gramm-Rudman-Hollings cut of almost $1 million by cutting more out of equipment and supplies, and 3% out of personnel costs. How was this distribution arrived at? What equipment items are foregone this year, and does the FY 1987 budget request essentially make restoration?

ANSWER: The distribution of Gramm-Rudman-Hollings cut in FY 1986 was made so as to cause the least disruption in staff. Short-term reductions in non-accident investigation travel, supplies and equipment were necessary to supplement staff reductions to be achieved through attrition. The Board's plans to procure computer and laboratory equipment will be severely curtailed this fiscal year. The 1987 budget request provides for a partial restoration of equipment funds to allow for the purchase of the highest priority computer and laboratory equipment.

EMPLOYMENT LEVELS -- FY 1986

SENATOR ANDREWS: Last year, the Conferees partially restored cuts in Board employment contained in the budget request. How many administrative law judge and general counsel positions were actually reduced? Will the efficiencies mandated by the Senate report take place this fiscal year?

ANSWER: Last year as a result of the partial restoration of cuts in Board employment made by the Conferees, the total Board employment level went from 340 to 338. To accommodate to this cut, one secretarial position in the General Counsel's office was abolished when it became vacant, and the sole remaining secretarial position in the Office of Administrative Law Judges was abolished (its incumbent was reassigned to a higher priority vacant position in the Bureau of Technology). The secretarial position in the Office of the General Counsel was one of only two such positions, so there remains only one secretary for five attorneys in that office. The elimination of the secretarial position in the Office of Administrative Law Judges means that three GS-16 Administrative Law Judges will have to rely for very minimal secretarial support on the docket clerk, the hearing assistant, or the paralegal specialist in that office -- the only remaining support staff. The efficiencies mandated by the Senate report are taking place this fiscal year.

SENATOR ANDREWS: The Justification claims a 15% productivity improvement in the ALJ area, in response to a 15% increase in the number of appeals filed. As you more efficient, or just breaking even? What is the status of appeal backlog?

ANSWER: The actual number of certificate and license appeals closed by the ALJs has in fact risen from 647 in FY 1985 to an estimated 730 in FY 1986 as a result of management improvements, but because of the rise in appeals received, from 670 in FY 1985 to an estimated 744 in FY 1986, we are only managing to hold our own despite the increased efficiency. Among the efficiencies affected are the following:

-- relieved all judges of all non-judicial duties to permit full time to be devoted to hearing appeals;

-- simplified and streamlined administrative support procedures (in part through use of the computer);

-- inaugurated a policy of encouraging the holding of hearings in cities that are major air hubs, to reduce travel time of judges;

-- implemented a stringent policy of not granting continuances or postponements of hearings, so that judges' time can be more tightly scheduled;

-- began scheduling more hearings per week and scheduling them as soon as the pleading stage is completed, in recognition of the fact that not all hearings scheduled will actually take place.

Despite these efforts, the backlog is expected to rise to 287 by the end of the fiscal year (from 273 at the end of FY 1985).

SENATOR ANDREWS: Do you believe that the 15 percent increase in the number of appeals is extraordinary, or do you expect this level of increase to continue?

ANSWER: The level of increase is extraordinary in relation to prior year increases, but we expect this level of increase to continue because it is resulting from the concerted effort and the higher priority being given by the Federal Aviation Administration (FAA) to enforcement of the regulations.

SENATOR ANDREWS: What other duties were the ALJ's performing prior to these management changes?

ANSWER: The Chief Administrative Law Judge was spending approximately 30% of his time on office administration (e.g. day-to-day supervision of the support staff, staff training, budget planning and management, administrative procedures and recordkeeping, etc.) Other ALJ's were involved in hearings scheduling and arrangements and travel planning. To the maximum extent possible, they have been relieved of all of these administrative functions.

SENATOR ANDREWS: Who is now performing these duties?

ANSWER: All administrative duties are now being performed by the ALJ support staff which has been transferred to the Office of the Managing Director and receives general supervision from the Deputy Managing Director.

FY 1987 WORKLOAD

SENATOR ANDREWS: The Board's justification states the budget request will support a total of 306 workyears, with major reductions coming in accident investigation and technology. Why do you feel this area can be cut?

ANSWER: We have no other feasible options available to us than attempting to accomplish this reduction through across-the-board program reductions. The impact of such across-the-board reductions, because of the large proportion of the NTSB's total staff allocated to these areas, will fall most heavily on our accident investigation (and supporting technology) programs.

SENATOR ANDREWS: Why does the President's budget show 324 workyears? Provide for the record a comparison of your differences with OMB on personnel costs. If the NTSB were funded for 324 workyears, what would be the budget request? Provide an additional column to the workload table (pg. 56) showing productivity at a 324 employment level.

ANSWER: The President's budget shows 324 workyears as a not-to-exceed ceiling level, whereas the Board's budget request indicates the actual number of workyears (306) which can be funded with the requested $21,430,000.

Personnel costs in both the President's and NTSB's budgets, as shown in the object class listing, are for 306 FTE workyears. The reason the Board's staffing is expected to drop between FY 1986 and FY 1987 is due to a partial restoration of non-personnel funds, which were drastically reduced in FY 1986 due to the Gramm-Rudman-Hollings sequester order. The Board feels it is unrealistic to operate on a long-term basis without funding in areas such as overtime, training, supplies, laboratory equipment, etc.

The NTSB would require an additional $1,173,000, or $22,603,000, to fund 324 workyears in FY 1987. These additional funds would cover all costs associated with the additional 18 workyears including personnel compensation and benefits, travel, training, etc. The following table expands the workload information shown on page 56 of the budget request to provide an estimate of productivity at this level. You will note that at the 324 workyear level in FY 1987, the productivity is estimated to remain constant as compared with FY 1986, since the staffing level remains the same.

SUMMARY OF WORKLOAD MEASURES
FY 1985-1987

			G-R-H		324 FTE
	FY 1985	FY 1986	FY 1986	FY 1987	FY 1987
Workload Measures:					
Safety Recommendations Issued	393	410	394	360	394
Major Accident Investigation Reports	45	47	45	41	45
Aviation	10	11	11	10	11
Railroad	11	12	11	10	11
Highway	6	6	6	5	6
Marine	12	12	11	11	11
Hazardous Materials/Pipeline	6	6	6	5	6
Field and Other Accident Investigation Reports	3,605	3,750	3,600	3,300	3,600
Aviation	3,125	3,250	3,120	2,860	3,120
Railroad	176	183	176	161	176
Highway	235	245	235	216	235
Marine	45	47	45	41	45
Hazardous Materials/Pipeline	24	25	24	22	24
Foreign Investigation	45	47	45	41	45
Public Hearings	10	10	10	9	10
Safety Studies	9	9	9	8	9
Rulemaking Reviews	45	47	45	41	45
Certificate and License Appeals (Closed)	647	760	730	670	730

SENATOR ANDREWS: FY 1987 accident investigation reports will be cut 300 from the post Gramm-Rudman-Hollings level this year, and 800 based on last year's plan for FY 1986. Without a crystal ball on accidents, we can only assume it will take the Board longer to conduct investigations. How many more reports would be issued if the FY 1985 and 1986 level of employment for investigations (165) were continued, instead of cut 16?

ANSWER: If the Board's investigative staff were to remain at the FY 1985 level we estimate that we would be able to produce between 3,600 and 3,750 reports in FY 1987. This number would include an approximate 3% increase in productivity.

DOT WHITE GLOVE REVIEWS

SENATOR ANDREWS: Two years after DOT announced a mode-by-mode review of safety, only three studies are completed: Hazardous materials, which identified significant concerns; aviation, which spawned a follow-up review; and rail. Has the Board reviewed DOT's conclusions in these areas? Are the studies comprehensive? Are the recommendations essentially for changes the Board has supported in the past, or are new safety problems being identified? Provide specific examples.

ANSWER: Hazardous Materials -- The Safety Board has reviewed the DOT report, "Safety Review Task Force Report on the Hazardous Materials Program of the Research and Special Programs Administration," dated February 1986. This report primarily appears to be based on discussions with constituent groups and review of only some selected studies conducted of the hazardous materials program. This was not an objective effort on the part of the DOT. This review, like the one conducted by the DOT in 1978, is cursory at best and it fails to address in a substantive manner many of the basic problems. Its recommendations, while well intended, for the most part are so general that one would be unable to determine the desired objective to be achieved. For example, on page 21 of the report recommendation three states, "RSPA should issue Departmentwide uniform inspection and enforcement guidelines for use by the modes and the states." Is uniformity the goal or is effective inspection and enforcement in a uniform manner the goal?

Many of the subjects treated in the report previously have been addressed by the GAO, the U.S. Congress, the National Academy of Science and the Safety Board. In contrast to the DOT's report, reports issued by these entities contained recommendations for specific changes to accomplish an identifiable objective. The Board has recommended that RSPA be given authority by the Secretary to carry out delegated responsibilities as the lead administration for matters pertaining to hazardous materials: matters such as the development of safety regulations even if they affect only a single mode of transportation, to establish and require the implementation of effective inspection and enforcement of hazardous materials regulations by modal inspectors, to develop effective, uniform training for hazardous materials inspections, and to establish priorities relative to hazardous materials inspections so as to ensure that maximum safety improvement was being achieved.

While the Board believes that the present regulations affecting the identification of hazards is effective for most materials, primarily because the results of accidents have so dictated, the regulations are not scientifically based and several inappropriate criteria are used as a basis for the regulations. The DOT report inadequately treats this area. Yet, it is the hazard identification and classification system which should be the basis for all container design, operating controls, placarding, and emergency response requirements. Today's transportation of hazardous materials functions as safely as it does because the majority of the shipping industry recognizes regulatory deficiencies and compensates by requiring added controls during transportation or by using better-than-required packagings for shipping high-hazard materials. This certainly was the case for Union Carbide's shipments of methyl isocyanate within this country and continues to be the case for many shipments of other major manufacturers and shippers.

This DOT report does not identify new problems and in fact, does not address other problems identified in the sources cited.

Aviation -- The Aviation Safety Review Task Force issued a report on August 15, 1985 which contained 16 recommendations to FAA on the subjects of timeliness, uniform interpretation of regulation, agency communications, regional autonomy, and general aviation safety. We have reviewed these recommendations and support all of them, particularly those that related to FAA timely response to Safety Board recommendations and general aviation safety. The Administrator submitted a summary of actions being taken by FAA to satisfy the task force recommendations on August 30, 1985. We generally agree with the task force follow-up review finding that FAA is being responsive to the DOT task force.

We are also waiting FAA's efforts to build their inspector force and their air traffic control staff. We are also continuing to follow up on outstanding recommendations.

Railroad -- The Board also has reviewed the "Report of the Safety Review Task Force on Federal Railroad Administration Safety Programs' dated October 1985. The recommendations issued in this DOT review are just another set of recommendations without any teeth. Basically, the recommendations reflect what has been said repeatedly about the FRA Safety Program for the last ten years as follows:

- FRA needs to develop and implement an information system that tracks regional performance.
- Review its National Inspector Program and the methodology for measuring regional performance.
- Allocate its inspectors according to projected accident rate and future risks.
- Develop a procedure to verify that defects are corrected.

These recommendations, and others in the DOT review study, are essentially changes which the Board has supported in the past; however, some safety areas continue to be of concern, specifically as follows:

- The need for hazardous materials emergency response plans for railroad years. This safety concern has been addressed in the Safety Board's "Special Investigation Report: Railroad Yard Safety -- Hazardous Materials and Emergency Preparedness," Report No. NTSB/SIR-85-02 issued April 30, 1985.
- The need for strengthened railroad supervisory procedures at crewmembers terminals. Specifically, are railroad crewmembers monitored for fitness for duty at away-from-home terminals on a 24-hour basis.
- The use of radio communication in the industry to improve safety including inter- and intra-train communications.

- -- Locomotive cab safety including the use of alerting devices to assist locomotive crewmembers in continuing to be alert on long and difficult runs.
- -- The incorporation of automated track geometry measurement vehicles into FRA's regional performance program, including these vehicles' use on hazardous materials and passenger routes.
- -- The need for FRA to exercise diligent oversight of rail tank car construction, modification, repair, testing and inspection. Oversight of all these functions primarily are performed either by the Association of American Railroads through FRA delegations of authority or performed by industry with little or no oversight.

SUMMARY ACCIDENT REPORTS

SENATOR ANDREWS: Your budget justification states that the Board has formalized a system of Summary Accident Reports that enable the Board to highlight a safety issue occurring in an accident in support of one or more safety recommendations without preparing a comprehensive narrative report on all aspects of the accident. At what stage in an accident investigation are these summary reports issued?

ANSWER: The Safety Board produces Summary Accident Reports for several reasons. First, as a means to report on investigations of the lesser complex accidents; second to reinforce the need for action on safety issues previously identified in major reports; and third, to report on specific safety matters in support of a safety study which analyses factual information common to numerous accidents. For the first two purposes, the report may be issued any time after the investigation is complete. Often this requires less time to issue the report than for major investigations. When reports are used to support safety studies, summary reports generally are issued as a part of that safety study report; however, should a specific accident call for expedited action, the report and related safety recommendations are developed and issued soon after completion of the investigation.

SENATOR ANDREWS: Are these reports intended to replace the major accident reports containing all the facts and circumstances surrounding an accident that have generally been issued?

ANSWER: Summary reports are not a replacement for major reports. They provide an efficient and effective means for reporting on accidents in which only one or two safety issues were identified and which can be developed in a concise manner or for reporting specifically focused issues in support of an overall analysis. Neither the summary nor major reports contain "all the facts and circumstances surrounding an accident." The Board establishes a docket on all accident investigations for the purpose of making available to the public all information gathered during the course of our investigation.

CONTROLLER COORDINATION

SENATOR ANDREWS: The Administrator testified last October that FAA was initiating a "human factors analysis of tower cabs." What is the status of this effort? Will it improve controller coordination, in your opinion?

ANSWER: We have been unsuccessful in identifying an effort in FAA that is entitled "Human Factors Analysis of Tower Cabs." There are, however, two efforts in the FAA related to control tower personnel.

The first is the development of Operational Performance Standards (OPS) for tower personnel, which was initiated about 1 1/2 years ago. The OPS prescribe how to perform the duties of various tower controller positions. Currently, OPS have been developed for Flight Data, Clearance Delivery, Local Controller and Ground Controller. The OPS for Ground and Local Controller are being reviewed and it is estimated that the review process will be completed by the end of April 1986. It is anticipated that this report will be made available for review by the Safety Board.

The other effort is a Human Factors/Air Traffic Working Group to investigate operational errors, determine the causes and recommend corrective action to the Administrator. The working group has prepared a draft report which is being reviewed by the group prior to submission to the Administrator for final approval.

Because no FAA documents are currently available to the Board for review, no assessment can be made at this time of their expected effect on controller coordination. The Board expects to conduct a review of these documents once they are released by the FAA.

SENATOR ANDREWS: Given the seriousness of runway incursion, why does your statement indicate a delay in completion of the Board's study.

ANSWER: The air safety investigator assigned as project manager of the runway incursion study had to be assigned as investigator-in-charge of the Midwest Express Airlines DC-9 accident at Milwaukee on September 6, 1985. His involvement in that accident has delayed his ability to complete the report of our special investigation. In addition, the senior air traffic specialist assigned to this project also was assigned to several accident investigations, including the Henson Airlines Beech 99 accident near Grottoes, Virginia on September 23, 1985. Because of the record-breaking number of airline accidents last year, no other investigators were available to be reassigned to the runway incursion project. The staff is working overtime to complete the analysis of the 20 cases they investigated.

SENATOR ANDREWS: The FAA also has testified that terminal controllers are more experienced and numerous and therefore has shifted some terminal controllers to the centers. Is this move warranted, in your opinion?

ANSWER: The most critical staffing shortage of FPL controllers exists in the centers. The FAA's cross option program is intended to relieve this staffing problem by transferring FPL controllers from terminal and lower traffic density centers to the seven centers that have only 50 percent of their authorized FPL rated controllers.

CAPACITY RESTRICTIONS

SENATOR ANDREWS: The General Accounting Office (GAO) has testified that the number and proficiency of the air traffic control workforce is far behind FAA's own goals. Since traffic is on the increase, GAO recommends that capacity restrictions be put in place. Based on the Board's work, is this step necessary? When does the Board feel that FAA's workforce will be fully capable of handling traffic?

ANSWER: The Safety Board is reviewing the GAO report and will prepare comments on the findings concerning controller staffing, workload, overtime and air traffic management. A copy of these comments will be provided to the Committee as soon as this evaluation is completed.

AIR CARRIER INSPECTORS

SENATOR ANDREWS: The Washington Post article this Sunday about air safety quoted you, Mr. Burnett, that FAA regulations need to be reviewed for adequacy. How many outstanding recommendations are now pending with FAA on upgrades of the Federal Aviation Regulations? In what major areas?

ANSWER: The Safety Board has 44 pending recommendations requesting that the FAA revise existing regulations. Major areas addressed by these recommendations include: installation of improved flight data recorders, revision of the occupant protection regulations for general aviation airplanes and rotorcraft, installation of crash resistant/fire resistant fuel systems on general aviation aircraft, improvement of exit conspicuity and operability on air taxi aircraft, extension to ultralight vehicles the applicability of 14 CFR Part 91, improvement of the quality of passenger briefings and briefing cards, improvement of overwater flotation equipment requirements and performance standards, and revision of the specifications for the design, installation, maintenance and inspection of fuel storage and dispensing systems at airports.

SENATOR ANDREWS: The FY 1986 Senate Report required the Board to continue its work in the area of air carrier inspectors. What is the status of this special study?

ANSWER: The Safety Board remains very concerned about the adequacy of the FAA surveillance program. However, we changed the thrust of our activities in order to make the best use of our resources and to avoid duplicating the efforts of GAO and FAA to identify the deficiencies in the system.

We now believe that the most significant problems have been identified and that they are being addressed by the FAA. Accordingly, we are establishing a formal liaison process with FAA to enable us to track their progress. We will provide the FAA feedback through this liaison activity and by means of our on-going accident investigation and safety recommendation activities.

SENATOR ANDREWS: Was work curtailed because of lack of Board resources?

ANSWER: Yes. The staff specialists originally involved in the project were, of necessity, the same people who staff the Go-Team for major accident investigations. The record number of air carrier accidents worldwide last year forced us to commit our study resources to accident investigations.

SENATOR ANDREWS: What are the Board's major outstanding recommendations to the FAA on surveillance?

ANSWER: The Safety Board has 13 open recommendations issued to the FAA on the subject of surveillance. The areas addressed include: more stringent monitoring of commuter airline operations and maintenance, reporting on the effectiveness of FAA-directed actions to correct deficiencies detected during surveillance activities, increased use of failure trend information for surveillance of airline maintenance, assurance that an adequate number of FAA inspectors are assigned to monitor properly each operator, improved inspection of airport facilities and fuel handling, review of cockpit and cabin crew flight operation and training manuals, increased surveillance of aircraft and engine maintenance procedures, and correct marking and packaging of hazardous materials carried aboard aircraft.

SENATOR ANDREWS: Your statement indicates that problems in the system, identified by GAO and FAA, still exist. In what specific areas is FAA followup action deficient?

ANSWER: Our recent accident investigations have demonstrated a number of specific deficiencies in FAA surveillance which we have observed many times in the past. These have included: inspectors with a crushing workload imposed on them; a POI assigned to an all-jet carrier who is not qualified in any turbojet airplane, and who has little training for, or experience in her work; the inspector of a maintenance facility who did not take advantage of data available to him which was critical of the facility; and finally, carriers which have had essentially no surveillance worthy of the name.

These deficiencies generally can be considered part of more general problem areas such as the overall lack of inspectors, the lack of trained and experienced inspectors, the distribution of the inspection workforce relative to the activities surveilled, the failure to use all of the surveillance data available in the FAA system, and perhaps the most significant, the enthusiasm with which they pursue their inspection activities.

As I have indicated in my statement, these general problem areas are well known to the FAA and the actions they have underway can improve the surveillance system -- if they are vigorously implemented.

ARROW AIR

SENATOR ANDREWS: To what extent might the Arrow Air crash have been avoided with closer, stricter surveillance, and penalties? What is the status of that crash investigation?

ANSWER: The actual cause or related factors in the Arrow Airlines crash has not yet been determined. The Safety Board is participating actively in the investigation with the Canadians. One of the many issues being examined is the relationship of FAA surveillance to the cause. The Board's investigators are participating in the Canadian Aviation Safety Board Prehearing Conference in Gander, Newfoundland on March 24 and 25, 1986, and in the public hearing to be held in Ottawa on April 8 through 16, 1986. The subject of FAA surveillance will be addressed at the hearing. Once complete, the Board should be in a position to assess FAA surveillance as it relates to the crash.

SENATOR ANDREWS: What inspections on Arrow Air were conducted over the past three years? How does this compare to other charter carriers? What specific irregularities were identified, and what penalties or corrective action resulted?

ANSWER: Arrow Airlines was the subject of enhanced surveillance as part of the FAA's 1984 two-phase National Air Transportation

Inspection (NATI). If deficiencies were noted during the "Phase I" inspection, a "Phase II" special inspection was carried out. Arrow was recommended for an immediate Phase II inspection. Below is a summary of the recommendations directed at Arrow, which resulted from the NATI inspections. This information is part of the documentation prepared by Board staff as part of the Canadian investigation.

Arrow Airlines was also the subject of a special investigation following the accident. That inspection led to the grounding by the FAA of several Arrow airplanes due to inadequate documentation of certain airplane parts, which were referred to as "bogus" parts. The numbers, the content and the scope of past routine FAA surveillance is a matter which will be examined in-depth at the upcoming Public Hearing.

FAA - National Air Transportation Inspection

In March 1984 the U.S. Federal Aviation Administration (FAA), as part of a special two phase National Air Transportation Inspection (NATI), conducted concentrated inspection and surveillance on air carriers throughout the country. The finding of the inspections were reviewed by NATI Regional Coordinators who analyzed them for "trends and potential problem areas." If deficiencies were noted during the "Phase I" inspection, a "Phase II" special inspection would be carried out immediately with the air carrier. Arrow Air was selected for an immediate "Phase II" special inspection; the inspection was conducted from 19 March 1984 through 29 March 1984. The NATI Report describes the inspection procedures by the following:

> "The inspection was systems oriented (dispatch, maintenance, training, etc.), conducted in depth to assure that the operations system complied with the FAR's and was actually a workable system for the operator. If during the inspection a system was found deficient, team members would look closer at the problems, document the problems and offer recommendations to those problems.
>
> The systems inspection involved the review of records, interviews with Company personnel at all levels, enroute inspections, ramp inspections, personal observations by team members and numerous inspections conducted by FAA inspectors outside the team who conducted additional enroutes, crew training observations, facilities inspections, ramps, etc. Systematically each of the operator systems were tested, evaluated and documented. If found satisfactory, the team would proceed to the next system. Systems which supported one another were judged independently as well as collectively to assure that they did not conflict with each making them collectively unusable."

The report makes the general comment that "The cooperation given the team by Arrow Air Inc.'s highest levels of management, the staff and employees, was one of total sincerity and strong desires to make Arrow Air the best in the industry."

As a result of the NATI seven overall recommendations were made and a multitude of specific management, dispatch, maintenance and training recommendations were made. Some overall recommendations included:

> The operator should be held responsible for the currency of all manuals required by Subpart G and L of FAR 121. In addition, the assigned principal inspectors should be made aware that if Arrow's manuals fail to provide clear instructions and information, Company personnel cannot be expected to perform their duties and responsibilities with a high degree of safety.

> Operations and Maintenance Units should increase their surveillance and inspections of the carrier. Special emphasis is especially true in the area of enroute inspections.
>
> All discrepancies and/or unsatisfactory findings should be followed up to assure corrective action and if the findings substantiate violations of the Federal Aviation Regulations, the office should take enforcement action.
>
> Firm decisive action must be taken in all cases by district office personnel in the area of excessive and long overdue deferred maintenance items. A concerted effort by both the district office and the carrier should be taken to bring this particular item to a speedy conclusions.
>
> Assigned PMI and PAI should reevaluate those components that are identified as "on condition" items presently approved on Operations Specifications issued to Arrow Air. In some cases (most avionics), these components do no receive in-depth inspections or checks against appropriate physical standards to determine at the time of the inspection if the component should continue in service ...."

A recommendation made as a result of enroute inspections was as follows:

> The certificate holding office must conduct increased enroute surveillance on a more routine basis. Emphasis should continue to be placed on DMI/MEL items. The ability of Arrow's gate agents to keep normal bulky baggage items from being carried on Arrow's DC-8-63 aircraft must be monitored.

SENATOR ANDREWS: Does the Board feel that the Defense Department's military airlift command should inspect charter aircraft used in troop transport?

ANSWER: We believe that inspection of civil charter aircraft by the Department of Defense (DOD) personnel would not be necessary if the existing provisions of the Federal Aviation Regulations are complied with by the carriers, and if the FAA follows its mandate aggressively to ensure such compliance. If the airlines meet existing regulations and DOT economic fitness requirements, a redundant inspection should not be necessary, as long as the DOD has means to be assured that the carriers meet these standards. As the Arrow Airlines investigation has illustrated, there apparently has been a lack of coordination of information between the DOD and the FAA/DOT regarding the economic "health" and regulatory compliance history of charter operators. This issue will also be examined further during the ongoing investigation.

WIND SHEAR

SENATOR ANDREWS: After the Delta 191 tragedy last August, FAA indicated that terminal doppler production and procurement was several years away. However, the President's budget requests funding for terminal doppler radars. Does the Board concur that terminal doppler development has been accelerated?

ANSWER: The Board has no data to substantiate the fact that Terminal Doppler Radar Program Development, as we know it, has been accelerated subsequent to the crash of Delta 191. However, the FAA has developed a plan to accelerate the implementation of doppler radars at selected airports.

The FAA is planning to use 13 NEXRAD radars modified for use in the airport terminal area to cover 16 airports (in three instances the radar covers two airports) throughout the Untied States. One radar is planned for the FAA Technical Center at Atlantic City, New Jersey and one radar is recommended, but has not been approved, for installation at the New Orleans Airport. When development of the Terminal Doppler Radars are complete, and it is our understanding that first delivery is planned for December 1991, these modified NEXRAD Radar will be replaced by the Terminal Doppler Radar. Essentially the output from the modified NEXRAD Radars (Terminal NEXRAD Radars) and the Terminal Doppler Radars are equivalent.

SENATOR ANDREWS: Have the major carriers and regional airlines stepped up training for wind shear avoidance and survival?

ANSWER: There has not been a significant increase in windshear training as a direct result of the Delta 191 accident, but we have observed an overall increase of both ground and flight simulator training in recent years. We expect a definite increase in this training once the Authoritative Windshear Training Program is completed and distributed to the air carriers; this program, a joint effort of manufacturers and operators under the supervision of the FAA, is expected to be completed early in 1987.

SENATOR ANDREWS: Would expanded use of flight simulators improve the level of pilot capability to deal with wind shear?

ANSWER: Although the Safety Board continues to emphasize avoidance as the best defense against windshear hazards, we believe that flightcrews must also be properly trained to deal with unexpected encounters. Flight simulators provide the most effective means of accomplishing this training; the Authoritative Windshear Training Program currently being developed will enhance the quality of this instruction.

SENATOR ANDREWS: How much effort should be placed on a ground-based system (which relies on time-consuming, ground-based verbal communication) when Boeing is moving toward cockpit systems?

ANSWER: Ground-based systems will have the capability to detect the existence of a windshear condition and provide for timely avoidance advisories. The cockpit systems that are presently being developed (such as the Boeing system) can only detect the presence of windshear after the aircraft actually enters the area of shear. The flightcrew is not alerted until the nonoard sensors identify a shear that has reached some pre-determined magnitude. Therefore, although cockpit systems will be a valuable aid for the display of optimum airplane performance and of escape maneuvers if needed, continued emphasis must be placed on the development and implementation of ground-based systems.

AIRCRAFT FATIGUE

SENATOR ANDREWS: On February 3, 1986, FAA ordered inspections of all 747's after discovering cracks in four aircraft frames. On January 9, the National Transportation Safety Board (NTSB) issued three safety recommendations, two classified as urgent. These recommendations followed from the Boston December 15 incident in which the wing flap on a Boeing 747 had separated due to fatigue cracks in the flap bolts. After its inspection British Airways found another Boeing 747 where fatigue was indicated. Has an airworthiness directive been issued to require inspection of these Boeing 747 wing flap bolts, as recommended by the NTSB?

ANSWER: Two separate issues are addressed by this question. The first concerns the fuselage frame cracks discovered on a Pan American World Airways Boeing 747 that was undergoing modifications required by the Civil Reserve Aircraft Fleet (CRAF) program. The service history indicated to Boeing that cracks may occur in the area of the fuselage from the radome to just aft of the No. 1 cabin doors; this had been most recently observed in the Japan Airlines SR versions. Boeing requested permission from Pan American to inspect these areas of the airplane. Three consecutive fuselage frames, at Body Stations 280, 300, 320 (the frames over the nose gear wheel well) were found severed during the inspection. As a result, on January 31, 1986 the FAA issued telegraphic AD T86-02-53 requiring a visual inspection of the fuselage skin near these frames on all Boeing 747s with more than 10,000 landings. Because the skin is a fail-safe load path and, therefore, skin cracks could indicate internal structural damage, any cracks detected on inspection would require repair prior to further revenue flight. On February 16, 1986, the FAA issued telegraphic AD T86-02-51 which required an internal or x-ray inspection of the frames at Stations 280, 300 and 320 in accordance with Boeing Service Bulletin 747-53A2265 (published two days earlier). Phase I of the service bulletin describes the procedures for inspecting the specific area around the three fuselage frames; Phase II describes the procedures for an internal inspection of the entire forward fuselage. AD T-86-02-51 requires compliance with only Phase I of the bulletin.

Since then, about 20 airplanes have been inspected in accordance with Phase I, including eight of British Airways 24 747's, all high cycle airplanes. Cracks were discovered in all eight of the airplanes inspected.

According to the FAA, an NPRM is being drafted and should be published by the end of April which will propose an additional AD to require compliance with Phase II of the Boeing Service Bulletin. By that time, about 25 airplanes will have been voluntarily inspected by operators of the affected airplanes, and a record will have been developed to support the need for the extensive inspections outlined in Phase II.

The FAA views the Section 41 problems as continued service problems that are well in hand with the AD system that is currently in place. None of the cracks had progressed to the point that the airplane's structure could not support the fail-safe or ultimate design loads. The manufacturer is developing long term solutions which will probably involve material changes, heavier gauges of material, or additional doubler plates. These changes will be incorporated on production airplanes and offered as a retrofit to existing airframes.

The second issue is the failure of bolts which secure the forward flap track attach fitting to the wing of a British Airways Boeing 747 while it was on approach to Boston's Logan Airport in December of 1985. When the securing bolts failed, the aft portion of the flap track was forced upward, buckling the flap segments mounted to it, and causing the majority of the foreflap segment to separate from the airplane. Subsequent to the accident, Boeing issued three Alert Service Bulletins asking operators of high time airplanes to perform a one-time inspection of the attachment bolts for looseness (it was believed that bolt looseness initiated the fatigue failure sequence). A total of 74 airplanes have been inspected to date, 12 of which had loose or fractured bolts in one or more of the forward flap track attach fittings.

On January 9, 1986 following the Safety Board's investigation of the accident, Safety Recommendations A-86-1 through -3 were issued to the FAA. Safety Recommendation A-86-1 asks for a mandatory inspection of all airplanes with a specified accumulation of cycles; A-86-2 requests a determination of an appropriate time interval for repetitive inspections; and the A-86-3 recommends that foreign governments be notified of the circumstances of the accident and any corrective action taken as a result.

The Safety Board has yet to receive the formal FAA response to these recommendations; however, the FAA's draft response indicates that it will publish a Notice of Proposed Rulemaking proposing to require, in compliance with the applicable Boeing Service Bulletin, a one-time inspection of the bolts. The FAA is likely to propose this action rather than the repetitive inspections recommended by the Board, because the manufacturer's service history indicates that the bolts were most likely undertorqued upon installation at the factory.

SENATOR ANDREWS: In the larger sense, what analysis has the Board conducted of aircraft service life and the seemingly increasing aircraft fatigue safety incidents (like these and the bulkhead problem associated with the Japan Air Lines crash last year). In other words, as the commercial aircraft fleet ages, is the public more at risk?

ANSWER: Airplanes are designed, certificated and manufactured, in accordance with federal regulations, to provide many years (tens of thousands of hours) of service. An evaluation of the strength, design and fabrication of the airplane is performed in accordance with 14 CFR 25.571 to demonstrate that it will not fail catastrophically from fatigue, corrosion or accident damage.

For an airplane to remain safe (and thus airworthy) once it enters service, it must be operated, inspected and maintained in accordance with a maintenance reliability program developed by a maintenance review board and approved by the Federal Aviation Administration. As operating experience is gained, revisions are made in the maintenance reliability program, such as extending or shortening the time between inspections or repairs, and adding additional inspections.

Operating experience has shown that as airplanes become older they may require more frequent inspection of their structures for damage from environmental deterioration and fatigue, because these factors are time dependent. That is, the longer the airplane is in service, the greater the affect of factors such as corrosion and fatigue cracking on the structural integrity of the airplane.

This is especially so for corrosion, which is highly dependent upon the environment in which the airplane is operated. Airplanes operated near salt air or sulphur producing industry tend to develop corrosion problems before the fatigue limits of their structures. Thus, the extended use of aircraft could result in greater risk to the public if these aircraft are not adequately inspected and maintained. However, with proper inspection and maintenance the extended use of aircraft should not result in a degradation in safety.

To assure continued airworthiness of airplanes as they approach their initially estimated useful life, the maintenance reliability programs are reviewed and modified, where appropriate, by a combined effort of the FAA, the manufacturers and the operators. The FAA has issued a number of advisory circulars, including AC 91-56, Supplemental Structural Inspection Program for Large Transport

Category Airplanes and AC 91-60, The Continued Airworthiness of Older Airplanes, to provide guidance to manufacturers and operators to develop a continuing structural integrity program to assure safe operation of airplanes as they age.

Manufacturers then develop Supplemental Structural Inspection Documents (SSID) which set forth the procedures to assure the continued airworthiness of their older aircraft. These documents identify the structurally significant items, that is those items which require more frequent inspection as an airplane ages, and places a damage tolerance rating on them. The SSID would then specify the changes in the inspection, repair or replacement of these items necessary to maintain the airworthiness of these airplanes. SSIDs give special attention to those areas that were not found to be of concern during the initial structural analysis but which could be of concern during the extended life of the airplane. Compliance of the essential elements of the SSID is then obtained through the issuance of ADs.

To date, Boeing has developed SSIDs for the 707/720, 727, 737 and 747 models. McDonnel Douglas and Lockheed Aircraft are developing SSIDs for their airplanes but have not completed these. In the interim, they are addressing the continued airworthiness of these airplanes by issuing service bulletins and ADs.

The NTSB has investigated many accidents and incidents in which airplanes experienced failures of their main structure, their flight control surfaces or their landing gear because of fatigue cracks or corrosion. These accidents and incidents include decompression of the Boeing 707 because of cracks in the fuselage sidewall, flap failures on the 707 and a horizontal stabilizer failure on a 707; depressurization of a Boeing 727 because of fatigue cracks initiating in a floor beam flange and numerous fatigue cracks and corrosion failures of landing gear components on the Boeing 727; and aft pressure bulkhead failures in the Boeing 747. There have been engine pylon failures, cabin depressurizations, and landing gear failures on the DC-10. There have also been numerous structural failures on the Part 23 airplanes operated by Part 135 operators.

None of the above accidents or incidents have been attributed by the Board to factors associated with age. Most resulted from inadequate or improper inspection or maintenance. Some were attributed to inadequate design. However, some of these accidents did involve airplanes with a relatively large number of flight hours or cycles and it is possible that these airplanes should have been subjected to more frequent inspections. The SSIDs should already reflect this service experience; if they do not, they should be revised to do so.

In its investigation of aircraft accidents, the Board is always alert to the signs of problems associated with aging aircraft. The Board has and will continue to ask the FAA to review the certification of maintenance programs for aircraft and engines when it believes this is necessary.

The Board also reviews, periodically with the FAA and manufacturers, actions they are taking to improve maintenance programs. For example, as a result of its Supplemental Structural Inspection Program, the Boeing Company has detected cracks in the forward part of the fuselage of some B-747 airplanes. Boeing has issued service bulletins and the FAA has issued airworthiness directives. Further, the FAA has sent a team to Boeing to determine if additional, more comprehensive action is required. The Safety Board has communicated with both Boeing and the FAA to monitor their progress on this issue.

AIRCRAFT CABIN FIRES

SENATOR ANDREWS: Listed as an accomplishment were FAA's rulemakings in response to the Board's cabin fire safety recommendations following from the Air Canada 1983 accident. Do you feel the fire blocking seat rule, the floor lighting and smoke detector rules are fully responsive?

ANSWER: The final rules on aircraft seat fire blocking and smoke detectors and fire extinguishers are fully responsive to the Safety Board's cabin fire safety recommendations. FAA's final rule on emergency escape path marking is generally responsive to the Board's recommendation; however, the rule does not provide the industry with adequate guidance on how to satisfy its requirements. Although FAA has issued an Advisory Circular intended to provide guidance for acceptable means of compliance, this measure still falls short of what is needed. FAA currently is developing additional guidance material to provide additional help to the industry in meeting the rules' implementation deadline of November 26, 1986.

SENATOR ANDREWS: When will FAA issue final rules on cargo compartment fire containment, and cabin material flammability? What about crew breathing equipment?

ANSWER: FAA's staff recently indicated the proposed final rules on cargo compartment fire containment and improved cabin materials flammability standards have left FAA and are undergoing review and coordination in OST and OMB. FAA does not know when final action on these issues will be completed. The public comment period for the NPRM on protective breathing equipment just closed last month (February 1986). FAA advised it is reviewing these comments and preparing a proposed final rule but a schedule for final action on this effort has not been formulated.

ALCOHOL USE

SENATOR ANDREWS: What response has FAA made to the Board's recommendation that pilot blood alcohol level be reduced below the current threshhold of .04 percent?

ANSWER: The FAA has rejected the Safety Board's recommendation that the FAA define the blood alcohol concentration which constitutes "under the influence" at the lowest level (consistent with the capability of testing equipment). In their response to the Board, the FAA stated that 0.04 is "adequate for the identification of persons under the influence of alcohol and accommodates the problem of 'false positive' BAC readings."

Since the issuance of the final rule, the Insurance Institute for Highway Safety has petitioned the FAA to amend the rule to "prohibit any BACs above 0.00 percent." The Safety Board has sent a letter supporting the IIHS petition to the FAA.

1985 ACCIDENT STATISTICS

SENATOR ANDREWS: The Board's interpretation of the 1985 accident statistics is at odds with the Department of Transportation's claim of a safe year when all miles flown are considered. Whose measurements should Congress rely on?

ANSWER: It depends on what kind of information is being sought. Historically, the Safety Board releases estimates of accident rates for several categories of avition; i.e., general aviation, scheduled and nonscheduled 14 CFR 135 operatinos and scheduled and nonscheduled 14 CFR 121 operations. We believe our statistics present a basis upon which conclusions can be drawn about aviation safety in many categories.

FOREIGN ACCIDENT INVESTIGATIONS

SENATOR ANDREWS: The justification states that the Board participated in 19 foreign accident investigations during 1985. What level of Board resources was dedicated to this effort? Is that level of effort continued in the budget request for 1987?

ANSWER: The level of Board resources dedicated to foreign cases in FY 1985 ranged from extensive to minimal, depending on the case. For example, the investigator overseeing all U.S. interests in the Air India B-747 accident was dedicated full time to that case for about five months. Several other technical staff were involved extensively in this accident in Ireland, Bombay and other locations. The investigator who led this U.S. effort is one of a staff of eight senior air safety investigators assigned to such major cases in the U.S. or overseas. Similarly, the JAL B-747 accident in Japan took extensive coverage by another investigator from the same staff of eight. In contrast, some of the 19 foreign cases in FY 1985 involved relatively minimal effort by the same staff of eight, but they did involve efforts by other Board staff. For example, certain foreign authorities requested that the Board oversee tests and examinations at manufacturers in the U.S. and at our laboratories in headquarters. Our staff complied with these requests and forwarded appropriate reports and developed safety recommendations from such cases.

In view of the rapid growth of U.S. manufactured airplanes being operated overseas, and the growth of U.S. carriers flying overseas, we expect continued extensive resource involvement in such cases. The FY 1987 budget plan does, however, contain a slight reduction in resources available for foreign investigation. This is in keeping with the necessity of "scaling down" resource allocations across the board.

PASSENGER SAFETY BRIEFINGS

SENATOR ANDREWS: At a time when airlines are attempting to reduce all costs, especially labor and training, what voluntary steps are carriers likely to take in response to the Board's review of passenger safety briefings?

ANSWER: Our staff has learned that, in direct responses to the Safety Board's passenger education safety study, United Airlines is conducting an evaluation of the three standard methods of conveying safety information to passengers (videotaped briefings, safety cards and oral briefings). Although we are not aware of any such remedial action by other carriers, we are hopeful that others will initiate similar efforts. Through informal contacts our staff will continue to encourage such initiatives.

COCKPIT VOICE RECORDERS AND FLIGHT DATA RECORDERS

SENATOR ANDREWS: What are FAA's reasons for their limited expansion and improvements in the use of cockpit voice recorders and flight data recorders?

ANSWER: The FAA claims that it cannot comply with the ICAO standards, which call for 32 parameters as opposed to 17 required by the FAA, and also meet the cost-benefit constraints imposed by Executive Order 12291.

The Safety Board, on the other hand, agrees with the ICAO evaluation of the cost-benefits of improved flight recorder standards. While costs of improving flight recorder standards can be reasonably evaluated, the benefits cannot. The benefits of a recorder can only be measured in abstract terms; that is, how recorded information can contribute to the determination of cause, and hopefully, lead to the implementation of corrective action to prevent a future occurrence.

The Safety Board plans, however, to advocate improved recorder standards at every opportunity and continue to compile the necessary information that we hope will eventually provide the economic justification required.

The Safety Board has issued several comprehensive recommendations which have defined the enhancement of flight recorder standards required to provide adequate data for accident and incident investigation purposes. These recommendations have been directed toward both air carrier and commuter aircraft and have reflected the accident investigation experience of the Board. The Safety Board notes, however, that the proposed rulemaking will not entirely satisfy the intent of the safety recommendations.

Regarding the status of the FAA's response to the NTSB's recommendations in upgrading of recorders -- the most significant action taken so far by FAA is the Notice of Proposed Rulemaking (NPRM) "Flight Recorders and Cockpit Voice Recorders," Docket No. 24418, which was published January 8, 1985. The FAA is projecting that, by the end of June 1986 these rules will be adopted.

SENATOR ANDREWS: Now that the International Civil Aviation Authority (ICAO) has completed its amendments to flight recorder standards, will FAA require additional parameters, as recommended by the Board?

ANSWER: This long-awaited amendment to the international standard for flight recorders is considered by the Board as a major accomplishment in our on-going safety objective on this issue. The IGIA response raised no objection to Amendment 11 to Annex 6, Part II; however, this was primarily because of NTSB pressure. The December 1985 IGIA response to the ICAO request for the date(s) of U.S. compliance with the provisions of Annex 6, Part II was as follows:

> "Compliance with the above paragraph by my Government would require national regulatory actions, the acceptance of which are contingent upon rulemaking provisions of the U.S. Administrative Procedures Act, which require public comment and cost-benefit analysis. It is, therefore, not possible to predict whether, or the time at which, regulatory action might be taken by the U.S. Government to comply with these paragraphs. With the exception of these differences and those currently on file, the United States is in compliance with Annex 6 Part II."

The regulatory action proposed by NPRM, "Flight Recorders and Cockpit Voice Recorders," Docket No. 24418, stipulates a retrofit that would increase the number of parameters from six to 11 for aircraft with a type certification prior to September 1969. However, the required number of parameters for aircraft certificated subsequent to September 1969 would not change.

The Safety Board is not particularly optimistic that the FAA will successfully complete this rulemaking action.

SENATOR ANDREWS: To what extent were 1985 accident investigations hampered by damaged cockpit voice recorders and flight data recorders?

ANSWER: During Calendar Year 1985, no flight recorder (CVR/FDR) information was lost due to damage associated with impact or post impact fire. The most recent occurrence involving the loss of recorded data due to impact or post impact fire damage was in 1984 when a Sundstrand V557 cockpit voice recorder was lost due to post impact fire.

On the other hand, accident investigations have been hampered by the loss of data due to preexisting malfunctions. From 1983 to date, of the 76 older, non-digital flight data recorders read out by the NTSB's lab, 37 had a complete or partial malfunction prior to the occurrence, which amounted to a 48 percent failure rate. By comparison, of the 15 digital recorders, designed to be a one-for-one replacement for the older recorders, read out during this same period, only one partial failure occurred. This failure involved a sensor and, therefore, was not a failure of the recorder as such.

SENATOR ANDREWS: Does the general aviation community support the need for cockpit voice recorders and flight data recorders?

ANSWER: Probably the best measure of the general aviation community support for cockpit voice recorders and flight data recorders is their response to NPRM "Flight Recorders and Cockpit Voice Recorder," Docket No. 24418, which was published January 8, 1985. The response to the NPRM has been mixed, with the aircraft manufacturers generally in favor and the operators opposed, sighting the lack of cost-benefit justification. There are elements within each group that go against the norm. One manufacturer sighted the additional cost associated with the installation of a recorder as being excessive and thus limiting the marketability of his product. A number of operators, on the other hand, felt that the benefits of the recorders far outweigh the cost. The following quote from Eastern Metro Express, a Part 135 air taxi operator, typifies the positive operator responses:

> The cost of cockpit voice recorders are far less than many non-safety items that are often ordered as options and installed aboard these aircraft.
>
> The economic impact to the industry should be minimal while enhancing aviation safety."

ALCOHOL AND DRUG USE BY TRUCKERS

SENATOR ANDREWS: Your budget justification discusses efforts to reduce alcohol and drug abuse by railroad crewmembers. The Federal Railroad Administration completed and approved alcohol and drug regulations 12 years after the Safety Board first called for such rules.

Recent emphasis has been focused by many parties on alcohol and drug abuse by truckers. Does the Board support measures to reduce to 0.04 percent from 0.1 percent the blood alcohol content level needed to establish that a motor carrier operator is intoxicated?

ANSWER: The Safety Board believes that there is no acceptable level of alcohol for professional vehicle operators on duty in any mode of transportation. Therefore, a level of 0.04 is equally inappropriate for professional truck drivers as it is for pilots or train crews.

SENATOR ANDREWS: Your list of selected emphasis areas for accident selection criteria does not include investigative oversight in the area of motor carrier operator alcohol and drug abuse? Why?

ANSWER: The Safety Board does intend to examine the prevalence of alcohol and other drugs in motor carrier operators. We chose not to list alcohol and drug abuse as a selected emphasis area per se because this issue is just one of several which will be addressed in our investigations of motor carriers.

SENATOR ANDREWS: Are you involved in investigations or other activities related to motor carrier operator alcohol and drug abuse?

RESPONSE: The Safety Board is in the preliminary phase of a safety study on heavy truck safety. This study will address the operational and other issues relating to heavy truck operations and will include alcohol and other drug use by vehicle operators.

SENATOR ANDREWS: Given recent increases and public attention focused on motor carrier accidents, do you believe that this is an area that merits Safety Board attention? Why, or why not?

ANSWER: The Safety Board does believe that this problem warrants the agency's attention. That is why the study described in the previous question will address alcohol and drug abuse among commercial vehicle operators. The Safety Board has investigated serious accidents in which such abuse was a factor. One purpose of the upcoming study is to investigate a large enough sample of heavy truck accidents to obtain some indication of the extent of this problem.

PERFORMANCE OF OCCUPANT RESTRAINTS

SENATOR ANDREWS: Your budget justification states that you are performing a special study on the effectiveness of seatbelts in preventing or reducing serious injuries in crashes because real-world performance of seatbelts in accidents has not been systematically collected and analyzed in the U.S. The National Highway Traffic Safety Administration (NHTSA) has been conducting research, collecting data and issuing reports on seat belt use for years. Won't your research be duplicating analysis already performed by NHTSA?

ANSWER: The Board is conducting a safety study on real-world performance of belt restraint systems. It will not duplicate work done by the NHTSA because it is based on detailed investigation of real-world crashes and has none of the limitations of the various data base used by the NHTSA. The Board's study is limited in one significant manner: it is not a statistically representative sample of motor vehicle crashes. Therefore, the findings in the crashes investigated by the Board should not be extrapolated to overall crash experience.

The work done in this area by the NHTSA falls into three general categories: observational surveys of restraint use, laboratory tests, and analysis of large databases, most derived from police records. Observational surveys, while useful in providing estimates of belt use rates by nonaccident-involved occupants, provide no information on accidents and injuries. Laboratory tests can provide certain kinds of information about belt performance, but the enormous variations in crash possibilities and human responses cannot be approached in the laboratory -- thus severely limiting the significance of lab tests for estimating real-world belt performance.

SENATOR ANDREWS: What deficiencies are there in the data being collected by NHTSA?

ANSWER: The NHTSA work can provide some insight into belt performance by analyzing the several large databases made upon information from police accident records. However, these databases are severely limited in their usefulness for this purpose, they lack the accurate detail needed to assess the role of belt systems in injury reduction or (in some cases) causation. For example, in the NHTSA's Fatal Accident Reporting System (FARS; computerized police records on fatal crashes), such factors as crash severity are not consistently, reliably, or uniformly collected by police. The records on restraint use are also not reliable; occupant lack of injuries tends to suggest to many police that restraints were used, and severe injury or death tends to suggest nonuse. Police also often use one term to record several types of belt restraint systems ("Lap belt" or "seat belts" to cover all belts and child safety seats) or miscode a lap/shoulder belt as a lap belt or vice versa. The deficiencies in police accident reporting on belt performance also vary from state to state, making combination of these data even riskier. For example, the rate of "unknown" belt use may be as low as two percent in one jurisdiction and as high as 96 percent in another (some states do not have a place on the report form for indicating belt or child safety seat use).

Finally, FARS is inadequate for assessing belt performance because it includes only fatal crashes. Even if all the information on each occupant in these crashes were complete and accurate, it is not clear one could generalize from, say, the restraint use by non-fatalities in these fatal crashes to those in non-fatal crashes.

None of the available data is sufficient for reliably gauging the effectiveness of seat belts (particularly that of lap belts) in real-world crashes. Although the Safety Board's study is not meant to be a statistically representative sample, it will provide information on the performance of lap belts relative to other restraint systems (and to no restraint) in a group of carefully documented, real-world crashes.

SENATOR ANDREWS: When will the study be completed, and what will be the likely major conclusions?

ANSWER: The first phase of the Board's study, dealing with lap belts, will be completed this spring; the second phase, dealing with lap/shoulder belts, will be completed this calendar year. The major conclusions have not yet been determined by the Board.

SCHOOL BUS SAFETY

SENATOR ANDREWS: Based on research conducted by the Board in 1983, the Board concluded that a federal standard to require manufacturers of large school buses to provide lap belts at each seating location would not be warranted. Why?

ANSWER: In 1983, the Safety Board reviewed state and federal schoolbus accident data, research and other work epeformed by NHTSA and the schoolbus industry, and information from other countries to determine of the new federal safety standards for schoolbuses had improved occupant protection. These safety standards had become effective in 1977, and at that time only a very small percentage of the schoolbus fleet was composed of the new buses. (The turnover rate for schoolbus fleets is 10 - 12 years.) Schoolbus accidents resulting in injury are of themselves very rare events and accordingly, as of September 1983, the Safety Board had investigated only a few schoolbus crashes involving poststandard large schoolbuses. Indeed, NHTSA had to conduct an evaluation of the new seating standard (FMVSS 222) based on a review of accidents involving prestandard buses and estimate the probable effects the seating standard would have had on occupant injuries.

NHTSA's study concluded that:

> (The post-1977 schoolbus seating and restraint standards) are probably very effective (about 60 percent injury reduction in the vast majority of schoolbus accidents, which usually involve minor damage to the bus, with at most a few passengers injured at the [minor to moderate injury] level. In the few violent schoolbus accidents that produce fatalities (the standards have) lower effectiveness -- about 29 percent injury reduction (approximately ten accidents per year). The [standards have] only limited effectiveness in the extremely small subset of very violent accidents involving rollover, crashes with trains, etc.

The Safety Board reviewed this analysis and believed that the inferences drawn in it were sound. Because preliminary analysis indicated that these standards appear to be effective in eliminating or substantially reducing the majority of schoolbus passenger injuries (those which are minor to moderate), the Safety Board did not believe there was sufficient justification at this time to recommend extending the mandatory passenger restraint system requirements to large schoolbuses.

This position was based on the best evidence available to the Board at that time. Since then, the Board has been working to gather additional data.

Specifically, the Safety Board has undertaken two safety studies of relevance to schoolbus occupant protection. The first study, almost complete, focused on the performance of lapbelts in crashes involving passenger cars and vans.

The second study, currently underway, focuses on the crash performance of poststandard schoolbuses (those built after April 1, 1977) and the injuries sustained by schoolbus passengers. The Safety Board wanted to evaluate the performance of large schoolbuses built to the new standards, and to depend on estimates of injury reduction derived from accident data files, as NHTSA did.

More than 60 in-depth accident investigations of schoolbus crashes have been conducted for this study; more than 40 involve large poststandard schoolbuses. All types of schoolbus crashes are represented but particular emphasis was placed on accidents involving rollover or side impact. Accidents of these types are of special concern to restraint advocates, who think "compartmentalization" offers inadequate protection to occupants during such accidents. A special effort was made to investigate crashes across a wide range of severity in contrast to the Board's previous focus on schoolbus crashes that resulted in fatalities or serious injury.

For each accident included in the study we are analyzing the crash dynamics, vehicle damage, and occupant injuries to determine what, if any, recommendations the Board should issue to improve schoolbus occupant protection. Analysis will include consideration of the change in injury patterns lapbelt use would have made.

The Board's future position on the question of lapbelts for passengers on large poststandard schoolbuses will reflect the findings of these two ongoing safety studies.

SENATOR ANDREWS: NHTSA Administrator Steed testified before this Subcommittee earlier this month that, based on accident experience, on compartmentalized buses, children without seat belts suffered less severe injuries than children wearing lap belts on school buses. Is this correct?

ANSWER: You are referring to the schoolbus crash tests conducted in 1984 by Transport Canada, the Canadian equivalent of the U.S. Department of Transportation. These were laboratory conducted crash tests of three sizes of school vehicles (similar to U.S. schoolbus models), with three different seat spacings, using restrained and unrestrained dummies. The restrained dummies wore lapbelts. Transport Canada conducted only one kind of test, a 30 mph frontal crash into a fixed barrier. Canadian data indicated that lap-belted dummies in these tests uniformly sustained more severe head strikes (particularly belted dummies seated in the smaller vehicles which sustained more life-threatening head injuries than the unbelted dummies). Transport Canada concluded that in a frontal collision, lap-belted schoolbus passengers are liable to suffer more serious neck and head injury than belted passengers.

The Canadian tests were lab crash tests only. We are unaware that any data based on real-life accidents exist that compare the injury outcome for a lap-belted passenger on a large poststandard schoolbus with that of an unrestrained passenger on the same bus. That is not surprising when you consider that there are so few large poststandard schoolbuses equipped with lapbelts for passengers and that schoolbus crashes which could result in significant injury are such rare occurrences. Furthermore, the crash experience of passengers on large schoolbuses (10,000 GVWR) cannot be compared to that of passengers on a small schoolbus (10,000 GVWR and equipped by federal standard with lapbelts for all passengers) because of the difference vehicle mass makes in crash forces and injury outcome.

CHILD SAFETY SEAT USE

SENATOR ANDREWS: Despite the existence of child passenger protection laws, misuse is a significant and widespread problem. A recent survey suggested that safety seats are misused about 65 percent of the time. In January of 1985 the Safety Board conducted a one-day symposium during which child passenger safety experts provided ideas on how to increase use and decrease misuse of child safety seats. Please summarize for the record the findings of this symposium.

ANSWER: Six workshops were held during the Board's symposium on child passenger safety, January 28, 1985 and each group issued recommendations and findings on how to decrease misuse and increase use of child restraints. The full text of the groups' more than 20 recommendations is contained in the published report of the symposium but the principal group recommendations are as follows:

-- Improve investigation and reporting in the state and local levels to provide data on use and misuse of child safety seats.

-- Develop a manual outlining standardized procedures for observational surveys.

-- Revise FMVSS 213 to emphasize performance, rather than specifics of design, thus freeing designers to develop more "misuse-free" safety seats; to address potential injury modes other than head; and to address the needs of the older child.

- -- Standardize vehicle seatbelts to alleviate incompatibility problems between belts and child restraints which lead often to misuse.
- -- Expand the National Child Passenger Safety Association (NCPSA) to become the national clearinghouse for information on child restraints and chief advocate for child passenger safety.
- -- Convince law enforcement officials who set policy that enforcement of child passenger protection laws will pay off in good public relations, manpower savings, and community support; enforcement will not be a liability.
- -- Simplify and improve existing child passenger protection laws: extend coverage to all drivers, not just parents and guardians; increase age limits for children; increase fines; and add a vehicle seatbelt option.
- -- Increase the effort spent in "training the trainers" (i.e., volunteers working in loan programs and target programs to specific audiences, depending on the age of child passengers (i.e., parents of newborns need different information than parents of toddlers ready to graduate from a safety seat to booster seat).

SENATOR ANDREWS: Following the symposium, the Safety Board issued a report summarizing the symposium and issued safety recommendations to the governors of the 50 states and to NHTSA to improve the collection of data regarding use and misuse of child safety seats. Are these recommendations being implemented?

ANSWER: To date, NHTSA has not responded to the four November 15, 1985 safety recommendations regarding data collection addressed to the agency. On that date, the Safety Board also sent a recommendation on the subject to the Governors of the 50 states, four U.S. tTrritories and the Mayor of the District of Columbia. So far, 23 states have responded and we are in the process of evaluating their answers right now. Based on a preliminary review, it appears many states recognize their accident data are inadequate and plan to take steps in the future to improve data collection and procedures.

SENATOR ANDREWS: Has there been an increase in the proper use of child safety seats in the last year?

ANSWER: According to NHTSA's survey of occupant restraint use in 19 cities, there has been an increase in proper use, although these results do not include the United States as a whole. More than half of all child safety seats surveyed were being used correctly.

SENATOR ANDREWS: Are these laws being adequately enforced by the States?

ANSWER: Enforcement efforts could be improved in many states. Child passenger protection laws, as they currently exist in many states, however, do pose problems for law enforcement officials. Age limitations and exclusions, i.e., parent or guardian, rather than all drivers, make enforcement difficult.

DOT TOXIC MATERIAL CLASSIFICATION

SENATOR ANDREWS: Your budget justification states that the Board expressed some concern last year with DOT's Notice of Proposed Rulemaking on toxic material classification. You further state that the final rule issued in October 1985 failed to adequately address almost all of the safety issues raised by the Board. In what ways are there deficiencies in DOT's hazard classification system?

ANSWER: Many toxic materials have not been addressed because the final rule applies only to liquids: solids and gases are not addressed.

All containers used to transport liquids meeting the standards established will have to be labeled or placarded, as applicable, as a "Poison" and the shipping papers also will have to be notated "Poison-Inhalation Hazard." Materials for which specific container requirements presently are listed in the regulations will have no change made in the container specifications; others will have to be packaged in accordance with the standards for poisons. Any changes in the container requirements for listed materials will have to await the outcome of Docket HM-181 which was opened in 1981 and yet has not been made final.

The toxic hazard of materials was not integrated into the existing identification and classification scheme as recommended previously by the Board. Furthermore, no action was taken in this rulemaking for specifically defining "Poison A" materials and no action was taken to interrelate the hazards of "Poison A" and "Poison B" materials. The Materials Transportation Bureau (MTB) stated that the entire hazard classification scheme will be reconsidered in the rulemaking actions being taken in Docket HM-181. While this action does not satisfy the comments made to the Docket by the Board, the MTB now has committed to complete a review of the hazard classification scheme.

No action was taken by the MTB for reconsidering the scientific basis for the standards established for identifying materials which pose substantial toxic hazards. The United Nations standards, already in force, convenient, and acceptable to other countries, were adopted even though there is no scientific basis for them. Whether or not these standards are adequate, this action will bring about packaging improvement for some materials.

The special exemption process for relief from these new regulations was incorporated unchanged. This process eliminates the requirement for providing public notice and opportunity for comment concerning any deviation from these rules. Moreover, it empowers the Associate Director for Hazardous Materials Regulation to make independently all determinations about alternate packagings which may be used to transport materials which meet the standards established in these rules.

By no means does the final rule address satisfactorily the comments made by the Board in its Mach 27, 1985 letter. However, without the Board's December 19, 1984 letter identifying deficiencies in the DOT's hazard posed by materials would have remained unaddressed by the DOT regulations.

ALCOHOL AND HIGHWAY SAFETY

SENATOR ANDREWS: Your budget justification reports that in reviewing the rate of alcohol involvement in highway traffic accidents, the Safety Board conducted overviews of statewide a h education/treatment programs and local enforcement and judicial systems. As a result of this study, the Safety Board issued ten safety recommendations to the states, and several to NHTSA and national judicial organizations that identified improvements needed for correcting system failures in this area. Are these recommendations being implemented by the states? By NHTSA? By national judicial organizations? If not, why not?

ANSWER: Our records indicate that to date twenty states responded to the Safety Board's "repeat offender" recommendations (see table below). After analyzing their responses, it appears that approximately ten of the 20 states are at least making progress towards compliance with each of the ten recommendations.

The reason why the states have not adopted particular "repeat offender" recommendations are many and varied. Recommendations such as eliminating plea bargaining or adopting of preliminary breath tests typically require legislation and in the case of plea bargaining would have a substantial impact on prosecution and court operations, statewide. We suspect that the considerable political as well as economic investment required to achieve such reform is not easily undertaken by state legislators, courts and other government officials. Other recommendations such as conducting presentence alcohol evaluations of DWI offenders will, in most states, require the hiring of additional staff and other costs. In this year of shrinking federal highway safety grants, the reduced availability of funds to implement recommendations has been cited by some states.

STATE RESPONSES TO NTSB REPEAT OFFENDER RECOMMENDATIONS

Recomm. #	States Respond.	Open Accpt.	Open Unaccpt.	Closed Accpt.	Closed Unaccpt.
H-84-77	20	13		7	
H-84-78	20	18		2	
H-84-79	20	15		3	2
H-84-80	20	10	1	8	1
H-84-81	20	10		10	
H-84-82	20	10		10	
H-84-83	20	11		9	
H-84-84	20	11	1	8	
H-84-85	20	10		10	
H-84-86	20	10		10	
H-84-87	NHTSA	OAA	Open Acceptable Action		
H-84-88	NHTSA	OAA	Open Acceptable Action		
H-84-89	VA	CUA	Closed Unacceptable Action		
H-84-90	ABA	OAA	Open Acceptable Action		
H-84-90	NASJE	CAA	Closed Unacceptable Action		
H-84-90	NJC	CAA	Closed Unacceptable Action		

SENATOR ANDREWS: Please summarize for the record the recommendations made in this area.

ANSWER: The major recommendations of this study, "Deficiencies in Enforcement, Judicial, and Treatment Programs Related to Repeat Offender Drunk Drivers, NTSB/SS-84/04" were those directed to the state governors:

-- Encourage the use, by all traffic law enforcement agencies in your state, of preliminary breath test devices and the NHTSA-recommended three-part field sobriety test, including the horizontal gaze nystagmus test. (Class II, Priority Action) (H-84-77)

-- Take steps to preclude reduction of an alcohol-related charge to a nonalcohol-related charge and to require in all cases that the defendant's driving record reflect the original charge. (Class II, Priority Action) (H-84-80).

- -- Encourage and support initial and recurrent training on alcohol, problem drinking, and drunk driving case adjudication for all judges hearing DWI cases. (Class II, Priority Action) (H-84-81)
- -- Require that appropriate alcohol problem evaluations of persons charged with alcohol-related traffic offenses be conducted and made available to judges hearing these cases. (Class II, Priority Action) (H-84-85)
- -- Take action to increase the availability and quality of alcohol treatment services designed specifically for juvenile alcohol abuses, especially to provide services at low cost to the user. (Class II, Priority Action) (H-84-86)

Several other recommendations were made to Governments, the NHTSA, the Veterans Administration and individual organizations.

SENATOR ANDREWS: As you are aware, NHTSA administers an alcohol safety incentive grant program to the states. However, due to the rigid criteria that must be met by the states in order to receive such a grant it is anticipated that $18 to $36 million in authorized funds will lapse at the close of FY 1987. Given the inordinate rate of alcohol involvement in fatal traffic accidents, is it your opinion that NHTSA's standards for making incentive grants to states are too stringent? Why, or why not?

ANSWER: The basic incentive grant criteria established in Section 408 U.S.C. 23 were specified by Congress not the NHTSA. In fact, through their rulemaking process the NHTSA modified the basic grant requirement of 90 days "hard" license suspension (no provisional permit allowed) to allow for 30 days of "hard" suspension and 60 days "soft" suspension (treatment or work-related driving).

The Safety Board has recommended that the states adopt measures such as administrative license revocation in their life-saving or safety merit alone. However, if states will not adopt such measures on this basis and incentive grants are required, significant compromises in these criteria would seem ill-advised. NHTSA reports that preliminary research indicates that there are significant reductions in alcohol-related crashes in the ten states that first qualified for Section 408 funds compared with 35 states that have not qualified.

SENATOR ANDREWS: Might not the public be better served if the full amount of available alcohol safety funding was granted to the states?

ANSWER: Assuming that the question refers to Section 408 funding (and not Section 402 or 403 funds), the best course of action might be to extend the authorization period the incentive funds are available rather than let the funding lapse. As suggested in the response to question 60, compromising the criteria would not be desirable.

SUBWAY FIRES

SENATOR ANDREWS: In response to recurrent subway fires on the New York City Transit Authority (NYCTA) system, the Safety Board conducted an investigation and issued a report in October 1985 documenting a series of deficiencies that have led to this fire situation. To correct the problem, the Safety Board made 14 recommendations to the NYCTA ranging from a one-time cleanup to an improved training program for employees. In addition, one recommendation was made to the New York City Fire Department to cooperate with the NYCTA in developing the recommended changes, and to the New York Sate Public Transportation Safety Board to require the NYCTA to establish an action plan for implementation of the 14 safety recommendations. Has such an action plan been developed?

ANSWER: As a result of its special investigation of subway fires on the New York City Transit Authority (NYCTA), the National Transportation Safety Board issued a total of ten safety recommendations to the New York City Fire Department, and five safety recommendations to the New York State Public Transportation Safety Board (NYSPTSB). In December 1985 the Board was informed by the New York Safety Board that the NYCTA had submitted a draft action plan for implementation of the NTSB's Safety Recommendations R-85-25 through -34. The New York Safety Board indicated at that time that it would discuss the NYCTA's draft action plan and the other four safe satisfied completely with the action plan submitted and that it would be in contact with the NYCTA regarding the additional action it believed the NYCTA should take.

In a letter dated March 25, 1986 the NTSB informed the NYCTA that approval and adoption of the NYCTA's action plan by the NYSPTSB may not necessarily satisfy all the Board's concerns as outlined in its recommendations, in which case the Board may urge further action by the NYCTA.

SENATOR ANDREWS: Have any of your 14 recommendations been implemented?

ANSWER: Of the 11 safety recommendations addressed to the NYCTA, two have been implemented and placed in a "Closed--Acceptable Action" status. These two recommendations deal with conducting a one-time cleanup of the subway system with a systematic debris collection program scheduled thereafter and providing fire extinguishers at all designated locations in the subway system.

SENATOR ANDREWS: Do you anticipate that NYCTA will comply with your recommendations? If not, why?

ANSWER: While the Safety Board will continue to follow up with the NYCTA and urge implementation of all recommendations that have yet to be satisfactorily addressed, it appears at this time that two of the Board's recommendations may not be implemented. One recommendation deals with providing two fire extinguishers in all subway trains, one at each motorman and conductor position. The NYCTA points to past experience with theft and vandalism for not implementing this recommendation and to the fact that the fire department is immediately notified when a fire or smoke condition occurs in the subway system. The Board believes, however, that critical time may be lost in these life-threatening situations awaiting the arrival of the fire department and that immediate action could be taken if the fire extinguishers were readily available to onscene personnel. Further, the Board is aware that other transit properties have fire extinguishers onboard trains and believes that the NYCTA could store these extinguishers in the manned compartments of the motorman and conductor. The other recommendation it appears that the NYCTA may not implement deals with the removal of all flammable materials from the subway tunnels and prohibiting the storage of flammable materials in all tunnels. The NYCTA points to the daily use of these materials for not implementing the recommendation. The Board believes, however, that the presence of flammable materials increases the potential hazard of a fire as a further source of combustion and believes that these materials can be transported easily to and from the area where they are needed for the operation and maintenance of track and signal equipment.

MOTOR CARRIER SAFETY PROGRAM

SENATOR ANDREWS: The Administration's proposed Surface Transportation Reauthorization Act of 1986 would double the number of federal motor carrier safety specialists and increase the grant program from $17 million in 1986 to $50 million in each of FY's 1987 - 1990. A September 1985 GAO report found that the grant program (1) had no specific goals or objectives, (2) had no established program information needs, (3) had no program-monitoring mechanism, and (4) had no method of evaluating program performance. In your opinion, is this program being effectively administered?

ANSWER: Public Law 97-424 enacted on January 6, 1983 authorized the Motor Carrier Safety Assistance Program (MCSAP). According to the Department of Transportation's July 11, 1985 response to a draft of the final GAO report, the GAO report which was published on September 5, 1985 was based upon a GAO investigation of the grant program which was begun in June 1983, about six months after the authorizing statute was enacted. The Safety Board feels that the findings and conclusions contained in the GAO report may have been overtaken by more recent events. For example, on August 31, 1983 the Department of Transportation published an interim final rule in the Federal Register concerning the MCSAP program. The preamble to this rule stated:

> The objective of the program is to reduce truck and bus related accidents and hazardous materials incidents on the highways by minimizing the causes related to mechanical failures, driver error, hazardous materials handling and careless safety practices by motor carriers. The method of achieving this objective is to encourage states to employ their resources to enforce substantially similar safety rules, regulations, standards and orders uniformly throughout the nation.

The Safety Board believes that the overall objective of the MCSAP program has now been clearly stated by the Department of Transportation, and that most, if not all, of the other conclusions reached in the GAO report were probably based upon observations made while the MCSAP program was still in the initial start-up stages. The GAO report itself, on pages 53 and 54, stated:

> The Department said that its motor carrier safety task force implementation efforts would largely satisfy our recommendations regarding establishing goals and objectives, defining the federal and state roles, developing monitoring mechanisms, and establishing a national program evaluation effort. In our opinion, the proposed actions address the problems we discuss, and if properly implemented would correct the problem.

The Safety Board shares the view of the General Accounting Office that if stated planned procedures have been implemented by the Department of Transportation the MCSAP program is being effectively administered. However, I would like to point out that the Safety Board has not completed a comprehensive review and/or evaluation of the MCSAP program.

SENATOR ANDREWS: Given the deficiencies in managing this program, do you feel that it is appropriate to increase the number of federal inspectors and the size of the grant program at this time?

ANSWER: The MCSAP program, when fully implemented and properly managed, can be a cost-effective use of federal resources and has the potential for achieving a much higher degree of compliance with federal and similar state motor carrier safety and hazardous materials regulations by commercial motor carriers and their drivers.

RECREATIONAL BOATING

SENATOR ANDREWS: Congress last year finally approved full funding for the state boating grant program. We felt the states should be supported in this area. The Board's report on state boating law efforts in the area of alcohol abuse would seem to support this. In light of progress to date, what would be the impact of the Administration's proposal to cut in half the recreational boating grant program?

ANSWER: Since the U.S. Coast Guard is no longer directly involved in enforcing safety in the recreational boating area, the burden falls directly on the states. One of the major causal factors in recreational boating accidents, fatalities, and injuries is alcohol use. The Board has estimated alcohol to be a causal factor in approximately two-thirds of the boating accidents. To date, 13 states have achieved a level of safety commensurate with the Board's safety recommendations issued in October 1983. The Board urged adoption of a clearly defined blood alcohol level for intoxication, such as is applied to highway motor vehicle operators. In addition, the Board recommended that states adopt legislation to allow a chemical test if a recreational boat operator is suspected of being intoxicated.

Twenty-three states and/or territories, we estimate, are now working to accomplish needed state legislation. The impact of cutting the recreational boating program in half may jeopardize the states' abilities to train their enforcement officers in detection of alcohol involved boat operators, curtail educational initiatives to inform boat operators of the hazards of alcohol use in the boating environment, and otherwise limit the states' abilities to progressively move ahead with new alcohol and/or drug initiatives to halt senseless deaths on recreational waters.

EMERGENCY FUND

SENATOR ANDREWS: The Board drew down from its emergency fund for the first time last fiscal year. Will the $351,000 obligated last fiscal year represent the total Board contribution toward Air India crash wreckage retrieval? What factors supported retrieval rather than limiting the scope of the investigation? What other countries participated, and what was the total project cost?

ANSWER: The final bills for the wreckage retrieval by the Navy was for $291,000, which is slightly less than the Navy's original estimate of $351,000. This will be the total Board contribution to this investigation.

The scope of the investigation was determined by the Indian government, which was responsible for the investigation. However, other governments, such as the United States, Canada, Great Britain, and Ireland participated in the investigation and contributed resources to conduct the investigation. Even though the United States did not make the decision to recover the aircraft components, we strongly supported their decision.

The Board felt it was essential to the investigation to retrieve enough of the wreckage to determine whether there were structural problems with the aircraft or if in fact a bomb led to the crash. With over 600 Boeing 747's in operation worldwide and with another investigation of a 747 crash in Japan still underway at the time, the additional cost of retrieving the wreckage is justified in order to identify the cause and make any necessary corrections. The total project costs to all parties is not known.

SENATOR ANDREWS: Why does the budget schedule show a FY 1985 obligation of $351,000, but the statement refers to the figure of $291,000?

ANSWER: When the budget schedules were prepared in December the actual costs of the wreckage operation were not known and therefore the schedules reflect the Navy's original estimate of the costs and the Board's original obligation of $351,000. The actual final cost of the operation was $291,000, as indicated in a letter from Chairman Burnett to Senator Andrews dated March 14, 1986.

SENATOR ANDREWS: As a general rule, will the Board use the fund for this type of obligation in the future? What other use of the fund is being considered at this time? Does the Board intend to formally notify the Committees on emergency fund use?

ANSWER: This is the type of obligation for which we believe the emergency fund was intended. We are not considering any other use of the fund at the present time. As in the Air India case, we will continue to formally notify the Appropriations Committees on future emergency fund use.

PUBLIC ACCESS TO ACCIDENT FILES

SENATOR ANDREWS: The Board points out that it receives 10,000 requests a year for accidents files. Who makes these requests? Do you feel that a user charge to offset reproduction costs would be appropriate? If not, why not?

ANSWER: The accident file requests are from members of the public such as owners and operators; insurance companies; lawyers; Congress, local and state governments; foreign governments; news media; nonprofit transportation related organizations and next of kin.

We do not feel that a user charge is inappropriate for certain categories of requestors and we, therefore, transfer the requests from these requestors to a private contractor, who fills their reproduction requests for a fee. However, we also feel that certain other categories of requestors, such as the last seven categories listed above, are furthering the interests and mission of the National Transportation Safety Board and should receive the information free of charge.

ACCIDENT INVESTIGATION TRAINING

SENATOR ANDREWS: Is the Board's accident investigation training, conducted at Oklahoma City, affiliated with the FAA? Is it affiliated with FAA's Management Training School? If so, what will happen when the Management Training School is relocated?

ANSWER: We have no affiliation with the FAA Aeronautical Center at Oklahoma City except that we are a tenant in the Center building and receive certain administrative support services from them through the DOT's Transportation Safety Institute. We have no affiliation with the FAA's Management Training School and will, therefore, not be affected at all if that School is relocated.

SENATOR ANDREWS: Are training charges assessed to state, local and industry participants? If not, why not? If so, please provide information on fees collected.

ANSWER: Non-NTSB or non-FAA students attending the NTSB's accident investigation school are charged an attendance fee of $1,400 unless a waiver of fees is approved. Since we established the school in FY 1985 there have been 31 non-NTSB/non-FAA students who have attended the school. Thirty of them have paid a fee and one was exempted. The fees, however, had to be deposited in the General Fund of the Treasury and the NTSB has not been able to use these collections to defray the cost of operating the school.

EQUIPMENT

SENATOR ANDREWS: Last year's justification reflected equipment obligations for FY 1985 and FY 1986 at about $200,000. Actual expenditures for FY 1985 totaled $1,036, and the pre-Gramm-Rudman-Hollings level was $743,000 for FY 1986. Why was this item increased? List specific purchases of equipment in FY 1985 and this year. What specific items will be funded by the $674,000 request for FY 1987?

ANSWER: The following table provides a history of the Board's equipment requirements for the five-year period 1983 - 1987. A comparison of the current FY 1986 and FY 1987 estimates with the previous three years shows that these estimates are well below the average for the five-year period. In fact, the estimates for FY 1986 shows a reduction of 64 percent over the FY 1985 level. Despite a partial restoration of these funds in FY 1987, the FY 1987 estimate remains 19 percent below the five-year average.

Fiscal Year	Equipment Purchases
1983	$1,029,000
1984	$1,053,000
1985	$1,036,000
1986	$372,000
1987	$674,000

At the time the FY 1986 Congressional budget was submitted, it was estimated that short-term substantial reduction sin equipment funds would have to be made in order to fund our anticipated employment levels for FY 1985 and 1986 and still remain within the total funds provided for those years. As a result of the vacancies of two Board Members and their staff for almost the entire fiscal year, we were able to restore those funds in 1985 to an adequate level. The Board purchased badly needed microcomputer and laboratory equipment that could not be purchased in FY 1984. It is because we were able to provide sufficient funds for equipment requirements in FY 1985 ($1,036,000 versus $228,000), that a significant short-term reduction in equipment funds for FY 1986 can be made without seriously jeopardizing our laboratory's technical credibility and improvements in the Board's overall productivity. However, a partial restoration to a minimally adequate level will be necessary in FY 1987 and therefore we anticipate reduced staffing to cover these costs.

A list of FY 1985 and FY 19856 equipment purchases, and those purchases anticipated for FY 1987 follows:

NTSB EQUIPMENT EXPENSES

FY 1985

Office Equipment

- Office Furniture (Work Stations, Bookcases, Tables, etc.)
- Office Machines
  - XEROX Copiers for Four Field Offices
  - Lektriever 80 Filing System
  - Velo-Bind Binder, Hole Puncher, and Mail Cart
  - Calculators

Subtotal Office Equipment	$89,000

Investigative Equipment

- Field Accident Investigation Equipment (Tape Recorders, Cameras, etc.)
- Lab Equipment
  - Panasonic VHS Recorder/Player, Monitor/Receiver
  - Multi-Channel VisaCorder, MPD Module
  - Microvax II Package, and additional software
  - Electronic Distance Measurer, Data Collector and Prisms
  - Electron Microscope Upgrade
  - Televideo and Computer Display Terminals
  - Time Code Reader Equipment and Upgrade
  - Graphic Recorder, Waveform Monitor, & Effects Unit
  - High Speed Cassette Tape Duplicator & NTSC Converter
  - Triple 5" Color Monitor & Terminal Control Software
  - Sony Beta Max and Panasonic VHS Recorder
  - Mixing Console

Subtotal Investigative Equipment	$163,000

ADP Equipment

- Additional Memory for Mainframe
- Micro Computers
- Teletype Model CRT Terminals
- Letter Quality Printers and Covers
- Formatted Hard Disk & Addtl Storage for Micros
- ATT Processor, Memory, Tape Drive & Disk Drive
- Computer Display Terminal, & Graphics Copier
- RP07BA Disk Drives With Cable
- Computer Cable
- Redundant Scan Modules, Controller Logic & Power Supply
- Printer Sheet Feeder, Cover, & DEC VT with Printer
- Interface Modules, Module Switch, & 16 Line Multiplexor
- M481 Concentrator Box, Portable CRT, Built-in Modem
- I/O Port Cards, Modems, Connectors, Tools, Installation
- CRT Shuttle, Commo Board & Enhanced Graphics for IBM-PC
- Redundency Features, Interface Panel & Punch Down Block
- Model 2000 Computer, Monochrome Monitor, Puck Assembly
- Other ADP Equipment

Subtotal ADP Equipment	$784,000
Total Equipment Purchases	$1,036,000

	FY 1986
Office Equipment	
Speakerphone and Telephones	
Panasonic Video Recorder	
Storage Shelves	
Air Conditioning for Materials Lab	
Subtotal Office Equipment	$35,000
Investigative Equipment	
Portable Space Heaters	
Compass and Compass Adapter	
Backplane Jumper/Cable Assembly	
High Speed Unibus DMA Interface and VMS Handler for Fairchild DFR	
Fairchild DFR Reader (RDU) and Uher Modification	
Hewlett Packard Copy Recorder	
Image Processing Hardware	
Subtotal Investigative Equipment	$62,000
ADP Equipment	
Computer Cable	
Equipment Needed to Connect Terminals with VAX in Lab	
Teflon Eight Conductor Cable	
Cluster Panels	
Micom Switch Expansion	
Teletype Model 5420 CRTs	
Dot Matrix Printers	
Megabyte RAM Boards	
72 Megabyte Disk Drives	
Subtotal ADP Equipment	$275,000
Total Equipment Purchases	$372,000

	FY 1987
Office Equipment	
One Automated Filing System	
Copiers for Two Field Offices	
Subtotal Office Equipment	$26,000
Investigative Equipment	
Graphics Processor	
Replacement Printers for Computer	
Three-dimensional Digitizer	
Strip Chart Recorder for DFDR Readout Station	
Bit Synchronizer for Cockpit Voice Recorder Readout	
Large-copy Photocopier	
Upgrade Sundstrand Interface Unit	
Upgrade Spectrum Analyzer	
Universal Tension Tester	
Color Photographic Reproduction & Enlargement System	
X-ray Flourescent Spectrograph	
Subtotal Investigative Equipment	$348,000
ADP Equipment	
Mainframe Upgrade to VAX 8600	$300,000
Total Equipment Purchases	$674,000

ACCIDENT INVESTIGATIONS

SENATOR ANDREWS: Provide for the record a listing of the major 1984 and 1985 aviation accident investigations, the status (if complete) and projected completion date, the major conclusions of those which are closed, and an estimate of board workyears for each.

ANSWER: Workyears information for individual workload products such as accident investigations or studies is not available. The Board currently has no system for accummulating such information, nor do we anticipate having the resources to provide such data in the near future. Prior to FY 1982, the Board had two staff professionals collecting workload, workyears and other types of management information. Those two positions were eliminated in FY 1982 as a result of drastic cuts in the Board's budget. The accident information requested is below.

Major Aviation Accident Investigations

FY 1984

October 11, 1983 -- Air Illinois, Pinckneyville, Illinois. The Board adopted this report on March 5, 1985. The National Transportation Safety Board determines that the probable cause of the accident was the captain's decision to continue the flight toward the more distant destination airport after the loss of d.c. electrical power from both airplane generators instead of returning to the nearby departure airport. The captain's decision was adversely affected by self-imposed psychological factors which led him to assess inadequately the airplane's battery endurance after the loss of generator power and the magnitude of the risks involved in contributed to the captain's inability to assess properly the battery endurance of the airplane before making the decision to continue, and led to the inability of the captain and the first officer to cope promptly and correctly with the airplane's electrical malfunction.

October 25, 1983 -- Flying Tiger, Inc., Norfolk, Virginia. The Board adopted this report on May 30, 1984. The National Transportation Safety Board determines that the probable cause of this accident was the flightcrew's mismanagement of the airplane's airspeed, resulting in an excessively long landing on a wet, partially flooded runway; mismanagement of thruster reversers; and hydroplaning. Contributing to this accident was the failure of airport management to identify, assess, and disseminate hazardous runway conditions warnings and the failure of air traffic controllers to inform the flightcrew that there was standing water on the runway.

November 24, 1983 -- Air Canada, Charleston, South Carolina. This report was adopted by the Board on October 17, 1984. The National Transportation Safety Board determines that the probable cause of this accident was an encounter with severe clear air turbulence produced by the intrusion of thunderstorm cells into strong winds aloft.

December 23, 1983 -- Korean Airlines, Anchorage, Alaska. The Board adopted this report on August 9, 1984. The National Transportation Safety Board determines that the probable causes of the accident were the failure of the pilot of Korean Air Lines Flight 084 to follow accepted procedures during taxi, which caused him to become disoriented while selecting the runway; the failure of the pilot to use the compass to confirm this position; and the decision of the pilot to take off when he was unsure that the aircraft was positioned on the correct runway. Contributing to the accident was the fog, which reduced visibility to a point that the pilot could not ascertain his position visually and the control tower personnel could not assist the pilot. Also contributing to the accident was a lack of legible taxiway and runway signs at several intersections passed by Flight 084 while it was taxiing.

January 13, 1984 -- Pilgrim Airlines, Jamaica, New York. The Board adopted this report on October 16, 1984. The National Transportation Safety Board determines that the probable cause of this accident was the flightcrew failure to use engine anti-ice on the inbound flight to JFK, the captain's failure to conduct a thorough preflight inspection, and the flightcrew's decision to use engine anti-ice on takeoff from JFK which lead to power losses on both engines.

February 28, 1984 -- SAS, JFK Airport, New York. The Board adopted this report on November 15, 1984. The National Transportation Safety Board determines that the probable cause of this accident was the flightcrew's (a) disregard for prescribed procedures for monitoring and controlling of airspeed during the final stages of the approach, (b) decision to continue the landing rather than to execute a missed approach, and (c) overreliance on the autothrottle speed control system which had a history of recent malfunctions.

May 30, 1984 -- Zantop International Airlines, Inc., Chalkhill, Pennsylvania. The Board adopted this report on March 19, 1985. The National Transportation Safety Board determines that the probable cause of the accident was the airplane's entry into an unusual attitude and the inability of the flightcrew to analyze the flight condition before there was a complete loss of control. Although the precise reason for the loss of control was not identified, an undetermined failure of a component in the No. 2 vertical gyro system, perhaps involving the amplifier and associated circuitry, probably contributed to the cause of the accident by incorrectly processing data to the co-pilot's approach horizon. The inflight structural failure of the airplane was due to overload.

May 31, 1984 -- United Airlines, Denver, Colorado. The Board adopted this report on March 21, 1985. The National Transportation Safety Board determines that the probable cause of the accident was an encounter with severe windshear from microburst activity following the captain's decision to take off under meteorological conditions conducive to severe windshear. Factors which influenced his decisionmaking include: (1) the limitations of the low level windshear alert system to provide readily usable shear information, and the incorrect terminology used by the controller in reporting this information; (2) the captain's erroneous assessment of a windshear report from a turboprop airplane and the fact that he did not receive a windshear report from a departing airplane similar to his airplane because of congestion on the air traffic control radio frequency; (3) successful takeoffs made by several other air carrier airplanes in sequence; and (4) the captain's previous experience operating successfully at Denver under windshear conditions.

June 4, 1984 -- Air Continental, Windsor Locks, Connecticut. The Board adopted this report on March 5, 1985. The National Transportation Safety Board determines that the probable cause of this accident was an uncommanded roll to the right which caused the airplane to roll about 90 degrees and descend into the ground. The cause of the uncommanded roll was an asymmetric retraction of the flight spoilers wherein the left spoiler retracted and the right spoiler did not. The Safety Board could not determine the reason for the right spoiler malfunction.

June 13, 1984 --- USAir, Inc., Detroit, Michigan. The Board adopted this report on March 5, 1985. The National Transportation Safety Board determines that the probable cause of the accident was inadequate cockpit coordination and management which resulted in the captain's inappropriate decision to continue the instrument approach into known thunderstorm activity where the airplane encountered severe windshear. The failure of air traffic control personnel at the airport to provide additional available weather information deprived the flightcrew of information which may have enhanced their decisionmaking process.

August 2, 1984 -- Vieques Air Link, Vieques, Puerto Rico. The Board adopted this report on September 27, 1984. The National Transportation Safety Board determines that the probable cause of the accident was the failure of the pilot to execute the emergency engine-out procedure properly shortly after takeoff following a loss of power in the left engine because of water in the airplane's fuel system and the failure of the Puerto Rico Ports Authority to remove excess water known to be in the airport's in-ground fuel tank before conducting fueling operations. The pilot's failure to execute the engine-out procedure properly was due to his inexperience in multi-engine airplanes.

Contributing to the accident were (1) the air carrier's use of a pilot not certificated for the flight; (2) the air carrier's failure to train the pilot adequately; (3) the pilot's failure to follow proper practices to detect water in the airplane's fuel tanks; (4) the out of weight and balance condition of the airplane; (5) the Federal Aviation Administration's (FAA) incorrect application of 14 CFR Part 135 Rules to commuter air carriers; and (6) the FAA's generally inadequate surveillance of the air carrier.

August 24, 1985 -- Wings West Airlines and Aesthetec, Inc., near San Luis Obispo, California. The Board adopted this report on August 29, 1985. The National Transportation Safety Board determines that the probable cause of this accident was the failure of the pilots of both aircraft to follow the recommended communications and traffic advisory practices for uncontrolled airports contained in the Airman's Information Manual to alert each other to their presence and to enhance the controller's ability to provide timely traffic advisories.

Underlying the accident were the physiological limitations of human vision and reaction time. Also underlying the accident was the short time available to the controller to detect and appraise radar data and to issue a safety advisory.

Contributing to the accident was the Wings West Airlines policy which required its pilots to tune one radio to the company frequency at all times.

FY 1985

December 6, 1984 -- Provincetown-Boston Airlines, Jacksonville, Florida. The report on this accident is being developed and we expect final action the end of June.

January 21, 1985 -- Galaxy Airlines, Reno, Nevada. The Board adopted this report on February 4, 1986. The National Transportation Safety Board determines that the probable cause of this accident was the captain's failure to control and the copilot's failure to monitor the flight path and airspeed of the aircraft. This breakdown in crew coordination followed the onset of unexpected vibration shortly after takeoff. Contributing to the accident was the failure of ground handlers to properly close an air start access door, which led to the vibration.

February 19, 1985 -- China Airlines, Pacific Ocean. The Board adopted this report on March 4, 1986. The National Transportation Safety Board determines that the probable cause of this accident was the captain's preoccupation with an inflight malfunction and his failure to monitor properly the airplane's flight instruments which resulted in his losing control of the airplane.

Contributing to the accident was the captain's over-reliance on the autopilot after the loss of thrust on the No. 4 engine.

August 2, 1985 -- Delta Airlines, Dallas, Texas. The report of this accident is being developed. We expect final action the end of June.

August 25, 1985 -- Bar Harbor Airlines, Lewiston, Maine. The investigation of this accident is not yet completed and we are unable to advise of a completion date.

September 6, 1985 -- Midwest Express Airlines, Milwaukee, Wisconsin. The investigation of this accident is not yet completed and we are unable to advise of a completion date.

September 24, 1985 -- Henson Airlines, Grottoes, Virginia. The report of this accident is being developed and we expect final action mid July.

SPACE SHUTTLE

SENATOR ANDREWS: Provide a summary of work being undertaken by the Board in the space shuttle explosion investigation. Indicate workyears and likely conclusion for this effort.

ANSWER: The Director of our Bureau of Accident Investigation is serving as Director for Vehicle Component Analysis for the space shuttle explosion investigation. The group which he directs is responsible for wreckage reconstruction, control and preservation; for mechanical, metallurgical and chemical analysis of the wreckage; and for structural evaluation of the entire space transportation system (i.e. the orbiter, the external tank, and the two solid rocket boosters). Other NTSB staff assisting in this effort are the Director of our Bureau of Technology, an aeronautical structural engineer and a fire sciences specialist from that Bureau. In addition, the Chief of our Materials Laboratory Division is serving as advisor to the Presidential Commission to evaluate various post-accident testing being carried out by Morton Thiokol and the Marshall Space Flight Center. Finally, we have read-out the Cockpit Voice Recorder on one of the observation aircraft which was in the launch area at the time of the explosion. The staff cited above are still working full-time with the investigation and will continue to do so until they have completed their tasks. It is, therefore, not possible at this time to predict the total workyears that will be spent by Board staff on this effort, nor exactly when it will be completed.

SENATOR ANDREWS: How much will the Board be reimbursed by NASA?

ANSWER: Because the personnel assigned by the Board to the space shuttle investigation have not yet completed their work, we are unable at this time to determine with any precision the total amount that NASA will reimburse the Board. NASA has indicated, however, that it will reimburse the Board for all costs incurred.

SENATOR ANDREWS: Is the Board being reimbursed for other ongoing work which can be applied to the Challenger investigation; if so, to what extent?

ANSWER: Other than the work described previously, the Board is not being reimbursed for other ongoing work which can be applied to the Challenger investigation.

AUTHORIZING LEGISLATION

SENATOR ANDREWS: What is the status of the Administration's request for a Board FY 1987 authorization. Has it been transmitted? What is the authorized amount? If higher than your budget request, please describe major differences.

ANSWER: The Safety Board, as an independent agency, prepares its own authorization request for Congress. Although the request has not as yet been transmitted, we will provide same to the Committee as soon as it is available.

ACCOUNTING SYSTEM ENHANCEMENTS

SENATOR ANDREWS: Your budget justification reports several data base management system improvements which provided the accounting staff with the necessary tools to accomplish a complete and accurate balancing and closeout of all accounts within days after the end of FY 1985. What cost savings have resulted from these improvements?

ANSWER: These improvements have resulted in both cost savings and operational efficiencies. From a cost standpoint the Safety Board has reduced overtime expenditures in the accounting office by $8,000 over the previous year. It has also realized a savings of approximately $7,700 by automating the typing of Treasury forms SF-166 and SF-1167, Schedule of Payments. These are the forms required by Treasury for every check it issues for agencies. Most small agencies must manually type these forms with the possibility of making additional errors.

The enhancements have also improved the flexibility of the system such that other agencies can adopt it to their needs. Currently the African Development Foundation is using our accounting system and sharing the cost of operations (approximately $26,000 yearly). The system is capable of handling additional small agencies and the Safety Board has been providing free presentations of the system to other interested agencies. With other government agencies time-sharing we could reduce the overall number of accounting systems throughout government, provide better financial management information systems, and reduce the costs for all concerned.

Operational efficiency resulting from the automated accounting system enhancements include but are not limited to the following:

Efficiency	No. of Days to Process Prior to Enhancements	No. of Days to Process After Enhancements
Vendor Invoices	35	6
Travel Vouchers	25	6
Monthly SF133	5	1
Monthly SF225	5	1
Monthly SF224	5	3
Year-End Closeout	45	5

Other efficiencies include greater internal control, enhanced budgeting techniques, increased responsive to management information needs, etc.

The Board did a survey of the administrative staffs of 12 other similar-sized agencies last July and found that, on average, these other agencies had 61 percent more staff in the financial management area.

SENATOR ANDREWS: Have any personnel reductions been made as a result of these data base management improvements?

ANSWER: Since 1984 the Board has reduced one position in the financial management area, or about 11 percent. Since 1980 we have reduced by two positions, or about 20 percent. However, the main purpose for the enhancements were to improve operations -- not to reduce staff. Based on a survey of other government agencies the Board has approximately 61 percent less staff in the financial management area. Without improvements such as accounting system enhancement we could not provide the required level of service with the relatively small staff we have. Also mentioned previously, the Board saved approximately $41,700 last year and has greatly improved the timeliness of operations.

In addition, the Board now has a fairly comprehensive financial information system which provides management with timely and accurate data on which to base decisions. The system is flexible and even though it is highly automated, it can be modified quickly by the financial management staff themselves, rather than depending on computer programmers.

As previously explained the overall efficiency of accounting operations has tremendously improved. The processing of payments has gone from an average of 30 days down to an average of six days. Financial reports are being produced more timely and with greater accuracy than most other agencies.

STANDARD LEVEL USER CHARGES

SENATOR ANDREWS: Please explain the 29 percent increase in standard level user charges between FY 1986 and 1987, especially given a ten percent reduction full-time equivalent employment during the same period.

ANSWER: Safety Board space costs are estimated to increase by 41 percent (or ten times the estimated inflation rate) from 1986 to 1987 based upon GSA projected cost increases, not because of any Board increase in space holdings. In fact, the Board square footage per employee is now below the GSA recommended average of 135 square feet per person, based on our latest space plan.

This increased cost results from a law which requires GSA to charge occupying agencies rates that approximate those charged to commercial tenants for equivalent space and related services. The rates for FY 1987 reflect only 85 percent of the appraised rates. The full appraised rates will, according to GSA, be charged beginning FY 1988.

The budget does not reflect a reduction in our space holdings to reflect the reduction in FTE to 306 because we cannot adjust our space holdings until the people are actually off the rolls. Also, in FY 1987, if we have to reduce our staff to 306 FTE, it will be necessary to incur large space renovation costs, which will equal any space reduction savings. To reduce our space to match our FTE level, it is necessary to perform space renovations, because we could not transfer randomly located individual offices that become vacant to GSA because they could not effectively use small boxes of space.

AVIATION SAFETY ANALYSIS SYSTEM

SENATOR ANDREWS: Provide an update to the information found on page 466-468 of last year's hearing on those elements of FAA's aviation safety analysis system of Board interest, namely service difficulty reporting, and common aviation accident data base?

ANSWER: Service Difficulty Reporting (SDR) -- The latest response from FAA Administrator Engen, dated December 6, 1985 states:

> In my letter to the Board, dated September 24, 1984, I stated that a project had been initiated to revise the entire Service Difficulty Reporting (SDR) program as necessary. A notice was published in the Federal Register, dated July 16, 1984, requesting comments from the public.
>
> A Service Difficulty Team has been formed. The Team met in June 1985 at the National Safety Data Branch in Oklahoma City, Oklahoma. There they reviewed the present SDR system and the public comments received from the general notice. The findings and recommendations of the Team are presently under review, and we expect to make a decision within the next 60 days on the scope of the changes needed.

The NTSB has classified Recommendation A-84-8 as "Open--Acceptable Action."

Common Aviation Accident Data Base -- Unfortunately, there has been little real progress on the development of the NTSB/FAA Common Aviation Accident Data Base since our first meeting on the subject with the FAA back in 1982. Prior to this meeting, the NTSB had already begun to develop an accident data system which would meet our needs and those of our aviation safety community. This system is in place and is working well. Subsequent to the meeting an NTSB/FAA working group agreed on certain revisions to the NTSB accident data base which were made. Also, an interagency agreement was signed committing both agencies to a "common data base."

We have worked with FAA since our system was developed to help them establish their system. We offered our data for FAA to use as they wish, and agreed to provide any information which the FAA and its contractors request. We have also offered to make available to the FAA an electronic tie-in to our accident data base, and we will work with them to periodically update their data base.

Unfortunately, the FAA has continued to study and restudy the issue while real progress has been very slow.

A highly structured development cycle was planned and initiated by the FAA for this effort. A Requirements Specification document was developed under contract and delivered to the FAA in November, 1985. While such a document may well be necessary to develop a complex system from scratch, late in 1985 FAA agreed to shortcut the planned lengthy development approach and to install the NTSB aviation accident data base on FAA computers in Oklahoma City. We have since provided FAA with additional tapes of our data base for their use in installing our data base on FAA computers.

Hopefully additional progress will be made within the next few months.

FLIGHT DATA RECORDERS

SENATOR ANDREWS: Is the Coast Guard's fleet of helicopters and jet aircraft equipped with both cockpit voice recorders and flight data recorders? Has the Board recommended installation of recorders for military aircraft? If so, what have been the Department of Transportation's and Defense's responses?

ANSWER: The Coast Guard's helicopter fleet is not equipped with any accident flight recorder equipment. Their HH65 helicopters are, however, equipped with an engine performance monitor recorder. Their fleet of fixed-wing, turbine-powered aircraft all have or plan to have the following flight recorder systems:

Falcon 25	flight data recorder only (digital)
C-130	to be retrofitted with digital flight data recorders
Gulfstream I & II	cockpit voice recorder only

On December 19, 1984 the Safety Board issued Safety Recommendation A-84-134 to the Secretary of Defense as follows: "Equip all current and newly acquired fixed-wing and rotary-wing aircraft operated by the military departments, which are used primarily to transport passengers, with state-of-the-art cockpit voice recorders and digital flight data recorders that record sufficient parameters for effective accident investigations, and place these recorders in the aircraft for maximum survival potential." This recommendation resulted from inquiries into two incidents (September 10, 1984 and October 18, 1984) involving Air Force airplanes transporting the Vice President and his party which came within close proximity to another airplane. This recommendation should contribute to a continuing awareness among the industry, Congress and the general public regarding the importance of improved recording systems in civilian aircraft.

On February 4, 1985 Honorable Caspar Weinberger, Secretary of Defense, stated in a letter to the Safety Board: "We have recognized the value of new technology FDRs, particularly on aircraft with technology that lends itself to the use of improved investigative tools. Accordingly, current Air Force policy calls for FDRs on all newly acquired aircraft unless specifically waived. Retrofit of existing aircraft is always a more expensive proposition; therefore, our retrofit programs have been undertaken only after a careful analysis of cost/benefit and mishap potential. However, I agree that 89th Military Airlift Wing aircraft used to support our senior government officials, despite a 36 year accident-free record, should be equipped with more capable FDRs. Therefore, I have directed that those aircraft be retrofitted as expeditiously as possible without affecting availability for their special mission. I have also asked the Army and Navy to review their passenger-carrying aircraft for a similar action."

Board staff members have participated in meetings with the Tri-Service Standard Flight Data Recorder Committee, whose purpose it is to develop flight recorder standards for the military. It is the Board's belief that the military program will accelerate the pace of hardware development for small, lightweight recorders and thus will provide a direct payoff to the civil aviation community.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

SENATOR D'AMATO: The Administration's proposed budget for FY 87 contains $21.4 million in budget authority (BA) for the National Transportation Safety Board. This is a reduction from your FY 85 BA of $21.9 million, and from your FY 86 BA of $22.3 million. How will this cut affect NTSB's ability to carry out its important duties to investigate accidents and promote greater safety in transportation?

ANSWER: As a result of the reduction in employment from 324 in FY 1986 to 306 in FY 1987, we estimate that the number of major accident investigation reports issued will decline from 45 to 41, and the number of field and other accident investigation reports will fall from approximately 3600 to 3300. Similar reductions in the range of nine to ten percent will occur in all other measures of NTSB workload, such as safety studies, recommendations and rulemaking reviews.

SENATOR D'AMATO: Will this reduction in funding preclude the NTSB from completing any safety studies which are now underway? Will the cuts require you to postpone any planned safety projects?

ANSWER: No, we believe we will be able to complete the safety studies which we now have underway. Also, we are hopeful that we will be able to undertake and complete the safety studies which are listed in our budget request under Future Plans during FY 1987 in the Congressional budget. However, as the unpredictable effects of the attrition required to lower our total employment level begin to be felt, it is possible that we may be unable to complete some of these studies and it is being likely that their completion will be significantly delayed.

QUESTIONS SUBMITTED BY SENATOR CHILES

FRA RULE ON DRUGS AND ALCOHOL

SENATOR CHILES: Chairman Burnett, I know that you strongly urged the Federal Railroad Administration over a long period of time to issue a rule relating to the use of drugs and alcohol by rail employees. After much delay, such a rule has finally been issued by FRA. Is this long awaited rule adequate to meet safety needs, in your view? Are there further changes you would recommend?

ANSWER: The National Transportation Safety Board generally supports the Federal Railroad Administration's long awaited rules to control alcohol and drug use by railroad operating employees.

However, the Safety Board holds fast to its position that the rule should convey the unmistakable message that any level of alcohol in an operator is a hazard to safe railroad operations and to public safety.

Additionally, the Safety Board believes that railroad/highway grade crossing accidents should not have been made exempt from the FRA rules and that both motor vehicle operators and train crew members should be tested for alcohol and/or drug use.

CONSISTENCY AMONG MODES

SENATOR CHILES: With the issuance of the FRA rules, we now have safety regulations on drugs and alcohol covering aviation, rail and trucking. The standards differ among the regulations, however. For instance, differing levels of blood alcohol are set forth in each modal standard. Differing test procedures for drugs or alcohol exist in each mode.

Do these differences pose a safety hazard? Are there certain standards which the Board believes should be uniform across all modes of transportation?

ANSWER: While substantial progress has been made by most of the modal administrations in addressing the problem of alcohol and other drugs, the Safety Board is not convinced that a complete and consistent federal program is yet in place. Consider, for example, the confusing and inconsistent manner in which federal regulations deal with alcohol and drug impairment in the various modes:

> In aviation the FAA rules require an abstinence period of eight hours and a blood alcohol content limit of 0.04 percent for a pilot beginning a flight, and a ban on any drug use which is "contrary to safety."
>
> In the highway mode, the Bureau of Motor Carrier Safety rules, which apply to all drivers for motor carriers involved in interstate commerce, state that there must be a four-hour

abstinence period before duty, and there is no blood alcohol level minimum limit; so therefore, presumably the driver may ingest any amount of alcohol which, in up to four hours before duty, will not bring the alcohol level to a greater amount that what state laws prohibit. Or, in other words, in most cases a 0.10 -- legally drunk. Further, some drugs are prohibited by the BMCS laws.

In rail there is no pre-duty abstinence period, but there is a 0.04 percent blood alcohol limit; and operators covered by FRA rules may not possess or use controlled substances or be impaired by them while on duty. There currently are no rules regarding light rail or subway, so presumably an operator, subject to any state laws, could consume any amount at any time prior to duty.

The Coast Guard rules prohibit operation of a vessel in a "negligent manner or while intoxicated," but no pre-duty drinking limits are prescribed nor is an intoxication level prescribed. We understand that a rulemaking effort is now underway within the Coast Guard to address intoxication limits.

The Safety Board believes that there is no level of alcohol or other impairing drugs in the body that can be conclusively presumed "safe." We have recommended to the FAA and the FRA in both their respective rulemakings on this issue, that the allowable level for air and train crew members should be none (no measurable alcohol) not 0.04 as these rules now specify. There should be a common, consistent level of zero BAC specified for all commercial vehicle operators in all modes of transportation -- not 0.04 percent in rail and air or 0.10 percent in highway, with no specified level in marine.

Unfortunately, the FAA has refused to modify their alcohol rule and lower their 0.04 percent to "under the influence" threshold, in spite of convincing evidence supporting such action which the Board and others have submitted to the FAA. We have also identified several problems inherent in enforcement of the FAA alcohol regulations.

Briefly, the enforcement system proposed by the FAA depends on every state having the legal authority to arrest and test a pilot suspected of "flying while intoxicated" in order to trigger the FAA's review and enforcement process which can result in removal of the airman's certificate for one year. The problem is not all states have "flying while intoxicated" statutes (ten do not) and as few as four states may have the authority to demand an alcohol test.

Considering the influence that the FAA's alcohol rule (particularly the 0.04 percent level) seems to have had relative to the other modal administration's alcohol rulemaking, it is the Safety Board's hope that appropriate changes, if made, by the FAA would serve as a catalyst toward improvements in all modes.

DRUG AND ALCOHOL TESTING FOR PILOTS

SENATOR CHILES: The issue of testing for drugs and alcohol is receiving much public consideration these days. In view of the key role airline pilots play in assuring passenger safety, I am concerned that perhaps we are not being vigorous enough in this area. As I understand it, pilots are only tested for drugs or alcohol after an accident or in connection with their 6-month physicals. Do you have evidence that these substances are playing a significant role in air accidents? Would it not be desirable to have spot checks or random sampling of plots to test for these substances?

ANSWER: With the exception of a Japan Airlines cargo flight in 1977, there have been no "certificated" air carrier (under 14 CFR 121) accidents involving a pilot found under the influence of alcohol or other impairing drugs. Because complete toxicological testing for a wide range of drugs is not yet a common practice in aviation accident investigations, we do not know the true extent of drug involvement in aviation crashes.

Addressing alcohol-involvement alone, Safety Board records indicate alcohol-involvement in approximately ten percent of fatal general aviation crashes and seven to eight percent of air taxi and commuter fatal crashes each year. Information is generally only available for fatal crashes, because only fatally-injured pilots are routinely tested for alcohol or other drugs. Surviving pilots involved in crashes and pilots subject to six-month physicals are not routinely tested.

Because the alcohol problem seems to be manifested primarily in general aviation rather than air carrier operations, random testing would not seem warranted based upon the air carrier accident records. Pre-employment testing, which is gaining in practice throughout the industry, would seem to be a more justifiable option when coupled with increased on-the-job management supervision of flight and ground crew performance.

Addressing the alcohol and other drug problem in general aviation presents a greater challenge. If all states would adopt "flying while intoxicated" statutes;" define a level of intoxication; and vest police officials with the authority to demand a chemical test of pilots suspected of intoxication, the enforcement system established in the FAA's recent aviation alcohol rulemaking (amending 14 CFR Parts 61, 63 and 91) might pose a credible deterrent to general aviation pilots who contemplate the use of alcohol and other drug's.

AIR TRAVEL SAFETY LEVEL

SENATOR CHILES: With the number of spectacular air crashes of last year, much attention has been focused on the safety of air travel. Concern has been expressed over the experience and workload of the system's comptrollers. FAA has been trying to get a greater number of "full performance level" (FPL) comptrollers into the system. Understand that you have testified that the number of FPL controllers is not as critical as it is to insure that the qualified supervisory controllers are actually supervising operations rather than having to work the radars and do other operational activities. You have said in situations where this is not happening, some form of "flow control" to reduce air traffic should be instituted.

Do we have significant numbers of instances where supervisory staff are not being used to supervise? Has FAA instituted "flow control" in such circumstances?

ANSWER: We have stated that the FAA must manage the traffic flow consistent with the controller staffing and experience level available. Our investigations of accidents, incidents and operational errors have continued to identify the need for corrective actions concerning the need for more effective air traffic management. In several of these investigations we found that supervisors were working control positions and no other staff had been assigned to assume the supervisor's duties.

(The Committee will be supplied shortly with a copy of our special investigation of runway incursions which will contain more specific information regarding supervisory activities.)

SENATOR CHILES: If the agency has not done so, are we reducing the margin of safety for air travellers?

ANSWER: If these problems relating to air traffic management are allowed to continue without effective corrective action, they may result in reducing the margin of safety in the Air Traffic Control System.

SEAT BELT RESEARCH

SENATOR CHILES: Your testimony indicates a significant effort in research on the actual effects of seat belt usage. Has your research indicated any results which differ from the assumptions we are all operating on that seat belt usage saves lives?

ANSWER: The Board has undertaken a Safety Study on the real-world performance of seat belt systems. The first phase of that study, addressing performance of lap-only belts, will be published this spring; the second phase, dealing with performance of lap/shoulder belts, will be published before the end of the calendar year. The study is based on in-depth investigation of about 200 real-world crashes, considered survivable but of at least towaway severity, in which at least one person was belted. The investigation of each crash involves determination and documentation of crash severity (calculated velocity change at impact), belt use or nonuse by each occupant, and detailed injury documentation for each occupant.

The first phase study, even though focused on lap-only belts, obviously includes some occupants who were using lap/shoulder belts. These belt systems have performed well when worn correctly. For instance, in one case a 1982 Jaguar sedan was struck in the left front by a 1981 Subaru stationwagon, in a severe crash (velocity change for the Jaguar of more than 32 mph). The impact completely destroyed the front structures of both cars. The Jaguar was driven by a 35-year-old woman, with her 14-year-old son seated in the right front seat and her 8-year-old daughter in the left rear seat. All three were wearing lap/shoulder belts and all three survived this severe crash. The driver did sustain serious injuries, due to the rearward collapse of the front of the car into her seating area. The boy in the right front seat, absorbing an angular force line at impact, was propelled forward into head contact with the dashboard, but he sustained only moderate head and face injuries; if he had not been restrained, a severe head impact into the windshield would have occurred and he might have been ejected. The 8-year-old girl in the rear seat behind her mother and using the lap/shoulder belt provided, sustained only minor neck and abdominal contusions.

This case is a dramatic example of how correctly used lap/shoulder belt systems can save lives and in some instances even prevent serious injury.

The performance of lap-only belts, however, did not compare favorably with that of lap/shoulder belts in the crashes investigated by the Board. There were many instances in which the lap belt not only did not prevent serious injury, it induced serious to fatal injuries which the Board concluded would not otherwise have occurred. If these persons had had available to them, and had been correctly using, lap/shoulder belts, the Board believes these serious to fatal belt-induced injuries would not have occurred.

It is important to remember that the crashes investigated by the Board were limited to frontal collisions; thus, the lap belt might have been effective in reducing injury or preventing death if these collisions had involved rollovers. Nevertheless, the Board is concerned about the frequency with which lap belts proved hazardous in these frontal crash types and believes that the introduction of upper torso restraint at rear seating positions would reduce the incidence of these injuries by providing improved protection in all types of collisions.

MINIMUM EMPLOYMENT LEVEL

SENATOR CHILES: In past years, you have indicated that 347 employees were needed to meet your statutory requirements. Your FY 1987 budget, however, only requests 306 employees. What will a level 41 below your previously stated minimum requirement do to your program in terms of meeting your statutory requirements?

ANSWER: We are hopeful that we will be able to accomplish this reduction to 306 employees through balanced, across-the-board program reductions rather than having to eliminate statutorily required programs. These cuts will reduce all workload accomplishments approximately nine to ten percent (as reflected in the workload figures appearing on page 58 of the budget). The impact of such across-the-board reductions, however, will fall most heavily on our accident investigation (and supporting technology) programs and on the aviation mode because of the large proportion of NTSB positions allocated to those areas.

SENATOR CHILES: With a drop of over 10% below your minimum, are there significant areas of safety which are not going to receive the scrutiny needed?

ANSWER: While our plan is to spread the ten percent cut across all programs, it is certainly true that we are going to have to limit the number of areas which we are able to scrutinize to only those of the highest priority while others of somewhat lesser priority are delayed, postponed or eliminated entirely. At this point, however, we are unable to identify areas of safety which might receive less attention.

FAA SAFETY STANDARDS

SENATOR CHILES: Last year's series of large plane accidents has focused the public's attention on FAA's inspection activities. The FAA's budget calls for additional inspectors. Chairman Burnett, you have been quoted in newspapers as indicating that numbers of inspectors alone are not the key, but that we need tighter enforcement policies. Under the law, FAA establishes only "minimum" safety standards. Airlines are supposed to operate above these standards.

Do you see a narrowing gap between what the airlines actually do and the FAA standards?

ANSWER: Yes, we believe that the gap between what airlines actually do and the FAA standards is narrowing. The FAA's recent inspections and enforcement actions certainly indicate this. In the competitive environment some of the actions which probably were taken voluntarily may be discontinued. For example --operators may be less apt to implement manufacturer service bulletins unless they are mandated by an FAA Airworthiness Directive. They may be more dependent on a continuing inspection and particularly new commuter airlines are upgrading pilots to captain with less experience than was previously the case.

SENATOR CHILES: What standards area do you believe should have priority for revision and improvement?

ANSWER: We certainly believe that the standards for flight recorders should be upgraded. We believe that the U.S. should be an example of modern technology in this area instead of our present position wherein we do not comply with new ICAO standards. Flight recorders are essential to accident analysis and often lead to accident prevention actions.

We believe that pilot experience -- and probably more important -- training requirements should be reviewed for both air carrier and commuters. For example, the air carrier rules do not require simulator training -- and yet such training is the only way to demonstrate the effect of a windshear to pilots.

The Aviation Safety Reporting System and the use of data compiled under the system is still in need of improvement. We are not sure today whether the system would effectively prevent an accident such as the DC-10 engine pylon failure in Chicago in May 1979, or the L-1011 engine magnetic chip detector "O" ring omission which resulted in oil starvation of all three engines in May 1983. In both cases there had been previous incidents which could have served as a warning that corrective measures were needed. The ASRS and FAA surveillance should be capable of preventing these types of occurrences.

SENATOR CHILES: Has the virtual free entry of individuals into the airline business had an adverse impact on FAA's ability to enforce their standards?

ANSWER: Yes, definitely, particularly since concurrently with the proliferation of new Part 121 air carriers in the early 1980's (68 to 128 by mid 1983), the FAA air carrier inspector force was declining substantially from about 640 in 1980 to about 550 in early 1984. During substantially the same period, the total inspector force (air carrier and general aviation) declined from about 2,000 to 1,300.

SENATOR CHILES: Do you believe we should have any kind of a "freeze" on airline entry until the standards and FAA staffing can be strengthened?

ANSWER: We do not believe that a "freeze" is necessary since the indications are that the number of carriers is declining (through mergers, bankruptcy, and voluntary dissolution) while the number of FAA inspectors is increasing. Further, through more frequent use of special teams, the composition of which includes staff personnel who formerly were inspectors, the FAA appears to be tightening enforcement appreciably which, as previously stated, is as much the key to safety as an increase in the numbers of inspectors. But FAA should give priority to serveillance over certification of new carriers.

OFFSHORE OIL RIGS

SENATOR CHILES: Last year you noted a serious lack of appropriate manning and personnel qualifications regulations which should be issued by the Coast Guard. Large losses of life -- over 175 deaths -- have occurred on such offshore rigs. Has there been any progress on this front?

ANSWER: On October 24, 1985 the U.S. Coast Guard issued a supplemental notice of proposed rulemaking on the licensing of officers and operating for mobile offshore drilling units (MODU's). The proposed rules address the Safety Board's concern that there is a serious lack of appropriate manning and personnel qualification requirements for offshore oil rigs but the proposed rules do not recognize the need for specific training and experience for the four major categories of MODU's: drillships, semisubmersibles, submersibles, and self-elevating. Also, the proposed manning levels do not include requirements for certificated lifeboatmen on all types of MODU's. We have indicated to the Coast Guard that these remaining shortcomings should be addressed.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

SENATOR LAUTENBERG: In Fiscal Year 1986, your budget called for expenditures of $22.3 million. The first round of Gramm-Rudman cuts resulted in a $959,000 cut in NTSB funding. What steps were you forced to take to reduce your expenditures by $959,000? What impact did this reduction have on your ability to carry out your statutory mandate?

ANSWER: The reduction of $959,000 in FY 1986 as a result of Gramm-Rudman-Hollings resulted in the following non-personnel cost reductions with the following impacts:

-- Equipment: the major management initiative to increase efficiency through computerizing Board activities (and thereby be in a better position to absorb resource reductions) has been stalled and the continuing effort to maintain the Board's laboratories in the forefront of technology has been jeopardized.

-- Supplies and Materials: stocks are being depleted, which obviously can be done only on a short term, one-time basis. More significantly, we have been required to reduce our employment from 338 to 324.

While it is still too early to assess the full impact of these reductions on our ability to carry out our mandate, it is clear that delays in carrying out our programs are resulting. In addition, we have deliberately chosen this year to minimize the personnel impact by drastically reducing equipment and supplies and materials costs. We will not be able to do the same next year; thus, we expect that the major program impact will occur next year when we must accommodate to these dollar reductions through major additional personnel cuts.

SENATOR LAUTENBERG: Your budget request for Fiscal Year 1987 is $21,300,000. Is this figure sufficient to carry out your statutory mandate?

ANSWER: While we intend to do everything we can to carry out the programs we have been given responsibility for by our statute, we have consistently maintained that in order to fulfill our statutory responsibilities adequately, we need 347 positions. The $21,200,000 requested for FY 1987 will enable us to fill an estimated 306 positions on a continuing basis.

SENATOR LAUTENBERG: In a Milwaukee Journal article on aviation safety, you were quoted as indicating that you have consistently asked Congress for more personnel. What level of funding do you consider adequate to carry out what you perceive to be the responsibilities of the Board?

ANSWER: In order to fund the 347 positions which we believe to be the minimum level adequate to carry out our responsibilities, we asked the Office of Management and Budget for $25,500,000 for FY 1987.

SENATOR LAUTENBERG: On November 10, 1985, two planes crashed over Cliffside Park, New Jersey. The Board has held a set of public hearings into the cause of this crash, which resulted in six deaths. To what extent was the air traffic control system responsible for this crash?

ANSWER: The Safety Board held a 2 1/2 day public hearing which commenced on February 24. The investigation is not yet completed, but the performance of the New York Terminal Radar Approach Control and the Teterboro Control Tower facilities, as well as the density of air traffic in the New York terminal area, were issues that were examined at the hearing. The Board presently is assessing the performance of the air traffic control system in the sequence of the events that led to this midair accident. It will make its findings available to the Committee as soon as possible after the completion of the investigation and determination of probable cause.

SENATOR LAUTENBERG: The local controller on duty at Teterboro Airport at the time of the November 10 crash was transferred to Teterboro from the New York TRACON in February of 1985. In June of 1985, he was certified as a full performance level controller at the Teterboro tower. How does this 5 - 6 month development period compare to the average amount of time required for a controller to be certified as a full performance level controller? Is the average developmental period 5 - 6 months from the time one enters a facility to the time one is certified as full performance level?

ANSWER: The five to six month training period is below the average time that it takes a new developmental controller to achieve Full Performance Level (FPL) status. However, in the case of the Teterboro Local Controller, his time should have been something less than the average due to the training exposure he had previously received at the New York TRACON. Specifically, his knowledge of the New York Terminal Airspace, coordination procedures between Teterboro Tower and the New York TRACON, and other training requirements that are common to both facilities would accelerate his advancement to a full performance level rating.

SENATOR LAUTENBERG: In the crash last summer of a Delta Airlines plane in Dallas, Texas wind shear has been cited as the cause. The FAA has stated in its budget submission that no air carrier accidents in 1985 were caused by air traffic control actions. To what extent was the air traffic control system involved in the events that led to the Delta crash? Were the actions taken by the air traffic controllers at Dallas-Ft. Worth Airport consistent with FAA standards and operating practice?

ANSWER: The Safety Board conducted a four-day public hearing in connection with our investigation of this accident and has completed the fact-finding portion of the investigation. The Delta Air Line accident contains issues involving weather forecasting and communications, as well as human performance. These issues encompass the airline company's procedures and training, windshear forecasting and avoidance, and air traffic control procedures both in the area of weather dissemination and control of air traffic.

Since the Board has not completed its analysis, it has reached no conclusions as to the extent of air traffic control involvement in the cause of the accident. As soon as we have reached our conclusions, we will inform the Committee of our findings.

SENATOR LAUTENBERG: In its August 1985 report on the rebuilding of the air traffic control system, the House Public Works Committee developed a workload/workforce index for air traffic controllers. Can a similar index be created for safety inspectors? If so, how does the workload of an FAA safety inspector compare with the workload/inspector ratio from the introduction of airline deregulation to the present?

ANSWER: There are probably several ways to quantify a workload/workforce index; e.g. number of operators/number of inspectors or number of aircraft/number of inspectors. We think that a comprehensive study would be required to determine a meaningful index, and we have not attempted such an effort.

Our specific investigations have indicated that the ratio of workload to FAA safety inspectors has increased significantly over the past several years. During this time period there has been a large increase in the number of new air carriers, commuters and air taxi operators that have entered into commercial service.

SENATOR LAUTENBERG: In 1984, there were 589 pilot reports of Near Mid-air collisions. In 1985, there were 758 such reports. What accounts for the increase in NMAC's?

ANSWER: The FAA has implemented a change in the administrative processing, investigation and classification procedures concerning the near midair collision reporting system. This has resulted in an increase in the number of reported near midair collisions. The revised procedures are both stricter and more specific. We have no information indicating a significant increase in the actual number of these occurrences.

SENATOR LAUTENBERG: How are NMAC's reported? Are the numbers of such occurrences reported by the FAA accurate? Are there NMAC's which go unreported and, if so, why?

ANSWER: NMAC's are reported by pilots, controllers, automated means and in some cases, by passengers. To our knowledge, the number of NMAC's reported is something less than the actual number of occurrences. Some NMAC's go unreported due to an unwillingness by the participant to possibly jeopardize his position, a lack of knowledge by parties that a NMAC has occurred (i.e. two pilots operating in clouds, therefore not observing the occurrence), or a reluctance to report a NMAC in order to avoid the inconvenience of filing the necessary paperwork.

Most NMAC's occur in Visual Meteorological Conditions where one or both airplanes are operating under Visual Flight Rules -- thus the NMAC count cannot be used as a good indicator of the ATC system.

SENATOR LAUTENBERG: To what extent is the number of operational errors a function of better reporting capability by the FAA?

ANSWER: Certainly the current reporting system has resulted in better reporting by providing more definitive criteria for proper classification of aerial occurrences. Also, the Operational Error Detection Program (OEDP) provides additional detection, through automated means, in situations that may have gone unreported in previous years.

Many of the Operational Errors are minimal compromises of the five mile separation standard which would probably have been overlooked by most controllers, but they are detected by automation.

SENATOR LAUTENBERG: What is the difference between a major and moderate operational error as reported by the FAA?

ANSWER: The FAA utilizes a point system to classify the severity of an operational error in the enroute control environment. There is no classification of operational errors in the terminal.

The point system ranges from 1 to 20, with a major infringement having 20 points, moderate from 14 - 19 and minor ranging from 1 to 13. The points are determined based on the horizontal and vertical proximity between the aircraft involved in the operational error. For example, using five miles horizontal and 1000 feet vertical as the minim separation standards the points range as follows:

Horizontal -- less than 1/2 mile separation = 10 points
4 1/2 to 5 miles = 1 point
Vertical -- less than 500 feet separation = 10 points
900 - 1000 feet = 2 points

SENATOR LAUTENBERG: What recommendations have you made to the FAA regarding wind shear detection? What has the FAA done to comply with your recommendations regarding wind shear?

ANSWER: The Safety Board has issued 44 recommendations on the subject of windshear. Currently, 17 of these recommendations are classified as open. Although much remains to be done, FAA does seem to be moving ahead in the areas of windshear detection. For example, the FAA plans to take delivery of 13 of the NEXRAD radars and to modify them for use in the terminal environments of 16 airports until terminal doppler radar is available. Additionally, the FAA has worked closely with the National Center for Atmospheric Research and the aircraft industry in general in developing simulator models for windshear avoidance/recovery training. This training will include development of flying procedures to assist pilots who do encounter windshear.

SENATOR LAUTENBERG: What is the status of your recommendations regarding collision avoidance (TCAS) systems? What has the FAA done to comply with your recommendations?

ANSWER: The Safety Board has issued ten recommendations on the subject of collision avoidance. The most recent recommendations regarding TCAS were issued to the FAA on September 20, 1985. The FAA is in the process of coordinating a formal response. The Safety Board has been informed unofficially that FAA will begin a one-year operational evaluation of TCAS II in mid-1987. TCAS II will provide resolution advisories in the vertical and horizontal planes.

QUESTIONS SUBMITTED BY SENATOR BYRD

SENATOR BYRD: Should the Gramm-Rudman-Hollings amendment result in sequestering in fiscal year 1987, what impact would that action have in the areas of investigation or other activities at the following levels of sequesteration: 5 percent, 10 percent, 15 percent, 20 percent, and 25 percent?

ANSWER: We have not had an opportunity to develop specific detailed contingency plans with respect to the possibility of further cuts in our FY 1987 budget request as a result of sequestration, and thereby to assess the impact on our investigation and other programs at various percentage levels. However, at the request of the House Public Works and Transportation Committee, we examined the impact of a 20 percent cut. If such a cut was implemented in FY 1987 and assuming we began the year at 305 FTE positions (as per our FY 1987 budget), we would have to reduce employment through a RIF of 69 positions down to the 237 level and furlough all employees for 25 days. With a reduction to the 237 FTE level a substantial impact on the Safety Board's aviation investigation program is inevitable, as sixty-one percent of the Board's current resources are devoted to it. On the other hand, if the aviation program were left intact and all of the position reductions were taken from the surface functions, it would leave only 31 positions in these functions, or an average of six positions per mode. This number of positions is well below the critical mass necessary to maintain a viable program in these areas and to fulfill our mandated responsibilities at a minimal level.

MID-AIR COLLISIONS

SENATOR BYRD: There was a report in The National Journal of October 12, 1985 that the number of near mid-air collisions occurred 478 times during 1983 and 592 times in 1984. In 1985, the number was estimated to be 439 through July, 1985 -- a seven month period. However, these statistics are higher than those first reported by the Federal Aviation Administration.

Have you done a study of the number of near mid-air collisions or do you maintain such information?

ANSWER: Near midair collision reports are made to the FAA and it maintains information on these occurrences. FAA has indicated that there were 758 reports of near midair collisions during 1985. The Safety Board has not conducted a study of near midair collisions.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

STATEMENT OF CHARLES HAUSER, CHAIRPERSON

ACCOMPANIED BY:

DAVID WELCH, EXECUTIVE ASSISTANT TO THE CHAIRPERSON
MARGARET MILNER, EXECUTIVE DIRECTOR

INTRODUCTION OF WITNESS

Senator BYRD. We will now hear from Mr. Hauser, chairman of the Architectural and Transportation Barriers Compliance Board.

Before we proceed with Mr. Hauser's testimony, we have an opening statement from Senator Chiles that will be put in the record at this point.

[The statement follows:]

STATEMENT OF SENATOR LAWTON CHILES

I would like to welcome the chairman of the Architectural and Transportation Barriers Compliance Board to today's committee hearing.

The Board plays a key role in making sure that citizens can fully make use of key transportation and other facilities in carrying on their daily lives. The Board has been engaged in this important effort for some years now and I look forward to learning of the Board's progress on a number of fronts. We will be interested in your plans to ensure greater safety and mobility for many of our citizens.

PREPARED STATEMENT

Senator BYRD. Because of the cramped time period in which we are working at the moment, if you have a statement may we just have it for the record with the understanding that it will appear in its entirety.

Mr. HAUSER. Yes, Senator.

[The statement follows:]

STATEMENT OF CHARLES HAUSER

MR. CHAIRMAN, I AM PLEASED TO HAVE THE OPPORTUNITY TO MEET WITH YOU AND MEMBERS OF THIS SUBCOMMITTEE TO DISCUSS THE BOARD'S FISCAL YEAR 1987 BUDGET REQUEST. THIS REQUEST REFLECTS MY PERSONAL COMMITMENT AND THE COMMITMENT OF THE BOARD AS A WHOLE TO THE POLICIES AND GOALS SUPPORTED BY THIS ADMINISTRATION TO CREATE A MORE ACCESSIBLE ENVIRONMENT WHICH CAN BE USED BY ALL PERSONS. BEFORE REVIEWING THE SPECIFIC BUDGET REQUEST FOR FY 1987, I WOULD LIKE TO HIGHLIGHT SOME OF THE BOARD'S RECENT MAJOR ACCOMPLISHMENTS AND DESCRIBE AREAS EMPHASIZED IN OUR WORK FOR THE CURRENT YEAR. THIS WORK HAS BEEN NOTEWORTHY FOR THREE PARTICULAR ACHIEVEMENTS: AN INCREASED COMMITMENT TO RESEARCH WITH A SHARP FOCUS ON PROJECTS THAT WILL DIRECTLY CONTRIBUTE TO COMPLETING THE MINIMUM GUIDELINES AND REQUIREMENTS; AN EMPHASIS ON COOPERATIVE PROJECTS WITH OTHER FEDERAL AGENCIES WHICH WILL ENHANCE OUR RESEARCH PROGRAM; AND THE INITIATION OF PILOT PROJECTS THAT DEMONSTRATE ACTUAL USAGE OF TELECOMMUNICATIONS DEVICES FOR DEAF PERSONS (TDDs).

ACCOMPLISHMENTS AND AREAS OF EMPHASIS

RESEARCH

DURING FY 1985 AND IN THE CURRENT FISCAL YEAR, THE BOARD MADE SIGNIFICANT PROGRESS IN ITS RESEARCH EFFORTS TO COMPLETE THOSE SECTIONS OF THE BOARD'S MINIMUM GUIDELINES AND REQUIREMENTS WHICH HAD BEEN RESERVED OR IDENTIFIED AS NEEDING ADDITIONAL INFORMATION.

REFLECTING ITS AWARENESS OF THE IMPORTANCE OF RESEARCH IN THIS EFFORT AND THE CONCERN EXPRESSED BY THE SENATE COMMITTEE, IN JULY OF 1985 THE BOARD ESTABLISHED THE POSITION OF DIRECTOR OF RESEARCH AND INCREASED ITS RESEARCH ALLOCATIONS FOR LAST YEAR, THE CURRENT YEAR AND FUTURE YEARS. BOTH OF THESE MEASURES DEMONSTRATE RECOGNITION BY THE BOARD THAT COMPLETING THE GUIDELINES IS A TOP PRIORITY.

IN FY 1985, THE BOARD COMPLETED TWO OF ITS MAJOR RESEARCH PROJECTS THAT WERE UNDERTAKEN AT THE END OF FY 1983 -- SIGNAGE AND DETECTABLE TACTILE SURFACE TREATMENTS. THE FINDINGS HAVE BEEN CIRCULATED FOR REVIEW

AND COMMENT, AND AT ITS MEETING ON MARCH 10 THROUGH 12, THE BOARD BEGAN CONSIDERATION OF SPECIFIC RECOMMENDATIONS FOR THE MINIMUM GUIDELINES AND REQUIREMENTS. RULEMAKING IS SCHEDULED TO BEGIN THIS YEAR WITH FINAL REVISIONS ANTICIPATED TO BE ADOPTED IN 1987.

IN ADDITION, THE BOARD INITIATED TWO OTHER RESEARCH PROJECTS DIRECTED TOWARD REFINING OR ENLARGING THE MINIMUM GUIDELINES. THE FIRST, ON ALARMS, WILL DOCUMENT AND EVALUATE EXISTING ALARM SYSTEMS AND EMERGENCY PROCEDURES USED TO ALERT AND EVACUATE HANDICAPPED PERSONS FROM BUILDINGS AND FACILITIES.

THE SECOND, INFORMATION SYSTEMS, WILL BE USED TO DEVELOP TECHNICAL AND USAGE REQUIREMENTS FOR AUDITORY AND VISUAL INFORMATION SYSTEMS, INCLUDING SIGNAGE AND AUDITORY PUBLIC ADDRESS SYSTEMS.

IN EFFORTS TO EXPAND ACCESS TO RECREATION OPPORTUNITIES FOR DISABLED PERSONS, THE BOARD, IN FY 1985, INITIATED A RECREATION ACCESSIBILITY PROJECT. THIS PROJECT INCLUDED THE CREATION OF A TWELVE MEMBER FEDERAL WORKING GROUP TO ASSESS PROGRESS AND MAKE FURTHER RECOMMENDATIONS FOR ACHIEVING ACCESSIBILITY FOR DISABLED PERSONS IN PARKS AND RECREATION FACILITIES. ALSO PART OF THE PROJECT IS THE DEVELOPMENT OF A TECHNICAL ASSISTANCE PAPER WITH ADVICE AND ASSISTANCE FROM THE WORKING GROUP. I MIGHT ALSO ADD THAT THIS WORKING GROUP, WHICH INCLUDES REPRESENTATIVES FROM THE DEPARTMENTS OF AGRICULTURE, DEFENSE, EDUCATION, HEALTH AND HUMAN SERVICES, INTERIOR, JUSTICE, TRANSPORTATION, AND THE SMITHSONIAN INSTITUTION, IS BELIEVED TO BE THE FIRST OF ITS KIND FOR THE FEDERAL GOVERNMENT.

THE TECHNICAL PAPER, NOW UNDER DEVELOPMENT, WILL SUMMARIZE THE FINDINGS OF THE WORKING GROUP, PROVIDE A LITERATURE REVIEW, EXAMINE MODEL RECREATIONAL FACILITIES AND MAKE RECOMMENDATIONS FOR ACTIONS TO IMPROVE ACCESS. THIS PAPER IS SCHEDULED FOR COMPLETION IN LATE FY 1986.

I AM PLEASED TO REPORT THAT THE BOARD HAS MADE SIGNIFICANT PROGRESS IN AN AREA OF PARTICULAR CONCERN TO CONGRESS, THAT OF IMPROVING AIR TRAVEL FOR

DISABLED PERSONS. IN THIS REGARD, THE BOARD PARTICIPATED WITH THE DEPARTMENT OF TRANSPORTATION AS A MEMBER OF THE NATIONAL TRANSPORTATION FACILITATION COMMITTEE AND AS CO-CHAIR OF THE SUBGROUP THAT FOCUSES ON THE NEEDS OF AIR TRAVELERS WITH PHYSICAL LIMITATIONS.

THIS SUBGROUP WAS CREATED BY THE DEPARTMENT OF TRANSPORTATION AND THE BOARD TO ENHANCE PRIVATE SECTOR COOPERATION IN SOLVING TRANSPORTATION ISSUES. THE FIRST MEETING, HELD AT THE BALTIMORE WASHINGTON AIRPORT, INCLUDED REPRESENTATIVES FROM BOTH THE FEDERAL AND PRIVATE SECTORS. THE SUBGROUP IDENTIFIED PROBLEMS DISABLED PERSONS ENCOUNTER USING AIRCRAFT BOARDING CHAIRS AND DIFFICULTIES HEARING IMPAIRED TRAVELERS HAVE DUE TO LACK OF ACCESS TO TELECOMMUNICATION DEVICES FOR DEAF PERSONS (TDDS) IN AIRPORTS. SIMILAR MEETINGS WILL CONTINUE THROUGH FY 1986 TO REVIEW THE MATERIALS PRODUCED UNDER THE VARIOUS BOARD CONTRACTS.

WITH RESPECT TO THE BOARDING CHAIR ISSUE, RESPONSES RECEIVED FROM THE BOARD'S FY 1984 INVITATION TO COMMENT INDICATED THAT SOME SAFETY PROBLEMS MAY EXIST WITH CHAIR DESIGN AND PERSONNEL TRAINING. TO ADDRESS THIS CONCERN, THE BOARD AWARDED A CONTRACT IN SEPTEMBER TO PRODUCE A TECHNICAL MANUAL ADDRESSING CHAIR DESIGN AND USE AND TO ADVISE THE BOARD ON POSSIBLE ADVISORY STANDARDS THAT COULD BE USED FOR CHAIR DESIGN. LAST WEEK, THE BOARD APPROVED PUBLICATION OF THE PROPOSED ADVISORY STANDARD FOR PUBLIC COMMENT. WHEN COMPLETED IN OCTOBER OF THIS YEAR, THIS PROJECT ALSO WILL YIELD A MANUAL ON THE USE OF BOARDING CHAIRS.

IN ADDITION, THE BOARD PREPARED A REQUEST FOR PROPOSAL TO DEVELOP A TECHNICAL MANUAL ON THE STOWAGE OF WHEELCHAIRS AND OTHER MOBILITY AIDS ON AIRCRAFT. THIS CONTRACT WILL BE AWARDED THIS SPRING.

IN ANOTHER TRANSPORTATION AREA, THE BOARD IS NEGOTIATING AN INTERAGENCY AGREEMENT WITH THE URBAN MASS TRANSPORTATION ADMINISTRATION TO PRODUCE TECHNICAL PAPERS FOR THE BOARD ON BUS WHEELCHAIR LIFTS AND SECUREMENT. BOTH AREAS ARE THE SUBJECT OF MANY TECHNICAL ASSISTANCE REQUESTS AND BOTH

ARE IN NEED OF SAFETY STANDARDS AND EVALUATION CRITERIA. THESE PAPERS ARE SCHEDULED FOR COMPLETION IN FY 1986 OR 1987.

PROGRESS HAS ALSO BEEN MADE IN ENHANCING COMMUNICATIONS ACCESS. UNDER THE TERMS OF AN INTERAGENCY AGREEMENT WITH THE DEPARTMENT OF TRANSPORTATION, A PILOT PROGRAM AIMED AT IMPROVING TELECOMMUNICATION SERVICES AT AIRPORTS FOR DEAF, HEARING- AND SPEECH-IMPAIRED TRAVELERS WILL BE CONDUCTED AT THE BALTIMORE AND MIAMI INTERNATIONAL AIRPORTS. THIS PROJECT WILL ESTABLISH A MODEL TDD PROGRAM, DEMONSTRATE OPTIMAL PLACEMENT AND APPROPRIATE SIGNAGE, TRAIN AIRPORT AND AIRLINE PERSONNEL ON TDDS AND DEMONSTRATE WAYS TO PROTECT TDDS FROM VANDALISM. THE PROJECT IS EXPECTED TO BE COMPLETED IN SPRING 1987.

COMMUNICATIONS ACCESS IS THE SUBJECT OF ANOTHER BOARD PROJECT THIS YEAR. THE BOARD HAS EXPLORED ALTERNATIVE METHODS OF ESTABLISHING A TDD RELAY SYSTEM WITHIN THE FEDERAL GOVERNMENT TO ALLOW TDD USERS TO GAIN TELEPHONIC ACCESS TO FEDERAL OFFICES AND PROGRAMS, LEADING TO AN INTERAGENCY AGREEMENT NOW BEING NEGOTIATED AS A PILOT PROJECT WITH THE U.S. DEPARTMENT OF TREASURY TO EXPAND ITS EXISTING SMALL RELAY SYSTEM. THIS IS SCHEDULED TO BEGIN THIS SPRING. THESE PROJECTS IMPLEMENT FINDINGS FROM THE BOARD'S TDD PROJECT, AUTHORIZED BY CONGRESS IN FY 1983.

DURING THE PAST YEAR, THE BOARD CONTINUED ITS FY 1984 RESEARCH ON HAND ANTHROPOMETRICS. THIS PROJECT, TO BE COMPLETED LATER THIS SPRING, WILL BE APPLIED TO THOSE SECTIONS OF THE GUIDELINES ADDRESSING CONTROLS AND OPERATING MECHANISMS.

IN 1985, THE BOARD CONTINUALLY INTERACTED WITH OTHER AGENCIES IN THE RESEARCH AREA. AS AN EXAMPLE, THE BOARD RESEARCHED THE INTERAGENCY REHABILITATION RESEARCH INFORMATION SYSTEM (IRRIS) DATA BASE TO IDENTIFY PROJECTS RELATED TO BOARD PRIORITIES, SUPPORTED THE NATIONAL INSTITUTE OF HANDICAPPED RESEARCH ON ITS REVIEW OF PROPOSALS, AND PARTICIPATED IN SEVERAL DEPARTMENT OF EDUCATION AND DEPARTMENT OF TRANSPORTATION SPONSORED CONFERENCES TO DISCUSS DISABILITY RESEARCH.

TECHNICAL ASSISTANCE

DURING FY 1985, THE BOARD CONDUCTED AN ACTIVE TECHNICAL SERVICES PROGRAM. THIS INCLUDED RESPONDING TO NUMEROUS REQUESTS FROM THE PUBLIC AND PRIVATE SECTOR ON ACCESSIBILITY RELATED ISSUES; ASSISTING FEDERAL AGENCIES, THROUGH COOPERATIVE EFFORTS AND INTERAGENCY AGREEMENTS, TO EVALUATE THEIR ACCESSIBILITY POLICIES AND TO IMPLEMENT THEIR OWN ACCESS REGULATIONS; AND DEVELOPING, AT THE REQUEST OF THE DEPARTMENT OF EDUCATION, RECOMMENDATIONS FOR PROVIDING ACCESSIBILITY FOR HANDICAPPED CHILDREN IN ELEMENTARY SCHOOLS.

IN ADDITION, THE BOARD COORDINATED THE JOINT PUBLICATION OF TWO MAJOR TECHNICAL ASSISTANCE DOCUMENTS TO ENHANCE COMMUNICATIONS ACCESSIBILITY WITHIN THE FEDERAL GOVERNMENT. THESE WERE A DIRECTORY LISTING TDD NUMBERS CURRENTLY IN USE WITHIN THE FEDERAL GOVERNMENT AND A TDD BROCHURE EXPLAINING TDD CHARACTERISTICS AND USAGE WHICH HAS BEEN WIDELY DISTRIBUTED TO FEDERAL AGENCIES AND OTHER INTERESTED GROUPS.

THE BOARD ALSO COORDINATED WITH THE FOUR STANDARD-SETTING AGENCIES THE DEVELOPMENT OF A REPRINT EDITION OF THE UNIFORM FEDERAL ACCESSIBILITY STANDARDS (UFAS), WHICH ARE BASED ON THE BOARD'S MINIMUM GUIDELINES AND REQUIREMENTS AND WHICH WERE ISSUED BY THE STANDARD-SETTING AGENCIES IN 1984. THIS NEW EDITION IS PRINTED IN A FORMAT THAT IS READILY USABLE BY BOTH CONSUMERS AND MEMBERS OF THE DESIGN PROFESSION, AND INCLUDES A 19-PAGE ALPHABETIZED INDEX TO FACILITATE ITS USE.

IN AN EFFORT TO STREAMLINE OPERATIONS, THE BOARD DEVELOPED IN-HOUSE TOOLS AND RESOURCES THAT ARE USED TO PROVIDE NEEDED INFORMATION MORE QUICKLY AND EFFICIENTLY. INCLUDED IS THE DEVELOPMENT OF PREPACKAGED INFORMATION MATERIALS, MADE POSSIBLE THROUGH THE USE OF THE COMPUTER FILES OF THE BOARD'S TECHNICAL RESOURCES LIBRARY.

TO ENHANCE THE CAPABILITIES OF THE BOARD'S LIBRARY, WHICH CONTAINS A COMPREHENSIVE COLLECTION OF LITERATURE ON ACCESSIBILITY ISSUES, THE BOARD DEVELOPED BIBLIOGRAPHIES AND RESOURCE LISTS; AUTOMATED THE STATE CODES AND STANDARDS FILE; AND ADDED AUTOMATIC DATA ENTRY AND RETRIEVAL CAPABILITIES.

CURRENT EFFORTS ARE DIRECTED TOWARD THE DEVELOPMENT OF A USER MANUAL. ALL OF THESE MEASURES ARE DESIGNED TO PROVIDE FASTER, MORE ACCURATE AND LESS STAFF-INTENSIVE TECHNICAL ASSISTANCE.

THE BOARD ALSO PARTICIPATED AS A MEMBER OF THE ANSI A117.1-1985 COMMITTEE IN THE REVIEW PROCESS OF THE 1980 SPECIFICATION LEADING TO THE DEVELOPMENT OF THE 1985 EDITION OF THE STANDARD WHICH IS WIDELY USED IN THE PRIVATE SECTOR AND BY STATE AND LOCAL ACCESS CODES.

COMPLIANCE AND ENFORCEMENT

THE BOARD CONTINUED TO FULFILL ITS RESPONSIBILITIES TO ENSURE COMPLIANCE WITH THE ARCHITECTURAL BARRIERS ACT OF 1968. IN FY 1985, THE BOARD RECEIVED 249 COMPLAINTS--A 6.5% INCREASE OVER FY 1984. IMPROVEMENTS IN THE BOARD'S COMPLAINT PROCEDURES, INCLUDING MODIFICATIONS TO THE BOARD'S COMPUTER TRACKING SYSTEM, ENABLE THE BOARD TO HANDLE EFFICIENTLY CONSISTENT INCREASES IN THE COMPLAINTS RECEIVED.

IN 1985 THE BOARD CLOSED 195 CASES--129 FOR LACK OF JURISDICTION, 5 FOR NO VIOLATION AND 61 FOR CORRECTIVE ACTION.

COMPLAINTS RECEIVED THIS PAST YEAR REPRESENT ORGANIZATIONS AND INDIVIDUALS IN 42 STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO AND THE VIRGIN ISLANDS. THE COMPLAINTS REPORTED SUCH ACCESSIBILITY PROBLEMS AS LACK OF PARKING FOR HANDICAPPED PERSONS, LACK OF RAMPS AND CURB CUTS, LACK OF TACTILE IDENTIFICATION FOR PERSONS WITH VISUAL IMPAIRMENTS AND INACCESSIBLE TRANSPORTATION VEHICLES.

ALL OF THE COMPLAINTS CLOSED IN FY 1985 WERE RESOLVED IN A VOLUNTARY MANNER. I AM PLEASED TO REPORT THAT SINCE 1982, THE BOARD HAS CONTINUED TO ACHIEVE VOLUNTARY RESOLUTION IN 100% OF THE CASES OVER WHICH IT HAS JURISDICTION AND IN WHICH A VIOLATION IS FOUND.

EXAMPLES OF VOLUNTARY CORRECTIVE ACTIONS THAT WE HAVE ACHIEVED INCLUDE: INSTALLATION OF A RAMP AT A NEW JERSEY POST OFFICE; INSTALLATION OF A CHAIR

LIFT AND SIGNAGE AT A CALIFORNIA MUSEUM; MAKING A WALKWAY IN FRONT OF THE VIETNAM VETERANS MEMORIAL IN WASHINGTON, D.C., ACCESSIBLE; INSTALLATION OF AN ELEVATOR AND ACCESSIBILITY MODIFICATIONS TO RESTROOMS ON TWO FLOORS IN A MISSISSIPPI COURT HOUSE; INSTALLATION OF A RAMP AND AN ACCESSIBLE RESTROOM IN A FEDERAL COURTHOUSE IN TEXAS; INSTALLATION OF AN ELEVATOR IN A WISCONSIN FEDERAL BUILDING, AND INSTALLATION OF A RAMP AT A VIRGINIA POLLING LOCATION.

THE BOARD WILL CONTINUE IN THE CURRENT YEAR TO PROCESS COMPLAINTS AND TO EMPHASIZE VOLUNTARY RESOLUTIONS. ALTHOUGH THERE IS SOME INDICATION THAT COMPLAINTS FROM CONSUMER GROUPS ARE DECREASING IN FY 1986, AN INCREASE MAY ARISE IN THE NUMBER OF COMPLAINTS REFERRED TO THE BOARD BY OTHER FEDERAL AGENCIES. THIS IS BECAUSE THE DEPARTMENT OF JUSTICE SECTION 504 PROTOTYPE REGULATION, WHICH MOST AGENCIES ARE ADOPTING WITHOUT SUBSTANTIAL CHANGE, REQUIRES THAT THE BOARD BE NOTIFIED OF ANY COMPLAINT WHICH ALLEGES THAT A BUILDING SUBJECT TO THE BARRIERS ACT OR SECTION 502 IS NOT READILY ACCESSIBLE TO HANDICAPPED PERSONS. THE BOARD, DUE TO IMPROVEMENTS IN THE COMPLAINT PROCESSING PROCEDURES, WILL BE ABLE TO HANDLE EFFECTIVELY CONSISTENT INCREASES IN THE NUMBER OF COMPLAINTS.

FY 1987 ACTIVITIES

THE BOARD HAS PLANNED AN ACTIVE AGENDA FOR THE BUDGET YEAR TO CONTINUE ITS EFFORTS TO MINIMIZE BARRIERS TO ACCESS AND USE BY DISABLED PERSONS. TO ACHIEVE THIS, IT IS REQUESTING $1,975,000 IN FISCAL YEAR 1987--THE SAME LEVEL AS THE FY 1986 APPROPRIATION LEVEL AND AN INCREASE OF $85,000 FROM THE 1986 LEVEL AFTER SEQUESTRATION--AND 27 FULLTIME PERMANENT EQUIVALENT POSITIONS.

RESEARCH

IN THE RESEARCH AREA, THE BOARD HAS TARGETED FIVE CRITICAL AREAS FOR ACTION: SIGNAGE AND OTHER INFORMATION SYSTEMS; CONTROLS AND OPERATING MECHANISMS; DOORS; RECREATIONAL FACILITIES; AND ALARMS. EACH OF THESE

EFFORTS CONTINUES OUR FOCUS ON THE DEVELOPMENT OF THE RESERVED SECTIONS OF THE MINIMUM GUIDELINES AND REQUIREMENTS AND ON THOSE SECTIONS NEEDING ADDITIONAL INFORMATION.

DURING FY 1987, THE BOARD PLANS TO COMPLETE A STUDY ON DOORS TO OBTAIN SUFFICIENT INFORMATION TO DETERMINE APPROPRIATE CLOSING AND OPENING FORCES FOR EXTERIOR AND INTERIOR DOORS TO PERMIT USE BY DISABLED PERSONS HAVING MOBILITY OR STRENGTH LIMITATIONS. ALTHOUGH APPROVED BY THE BOARD AS A PRIORITY FOR FY 1985, THE PROJECT WAS DEFERRED PENDING RESULTS OF A RELATED PROJECT ON HOSPITAL DOORS SCHEDULED TO BE COMPLETED BY THE VETERANS ADMINISTRATION DURING FY 1986. THE BOARD STUDY WILL COMPLEMENT THAT PROJECT BY CARRYING OUT RESEARCH NOT INCLUDED IN THE VA EFFORT.

DURING FY 1987, THE FINDINGS FROM THE BOARD'S TECHNICAL PAPER ON RECREATION WILL BE IMPLEMENTED THROUGH MECHANISMS SUCH AS ISSUANCE OF HANDBOOKS OR ADVISORY STANDARDS OR DEVELOPMENT OF PROVISIONS FOR THE MINIMUM GUIDELINES. THE BOARD WILL ALSO CONTINUE ITS WORK ON ALARMS AND ALARM SYSTEMS, LIFE SAFETY ISSUES THAT HAVE BEEN TARGETED AS A HIGH PRIORITY BY THE BOARD FOR BOTH FY 1986 AND FY 1987. THE THIRD PHASE OF THIS EFFORT, A PROJECT ON VISUAL ALARMS WHICH IS SCHEDULED FOR IMPLEMENTATION IN FY 1987, WILL DETERMINE APPROPRIATE LOCATION, FREQUENCY, COLOR, INTENSITY AND COST.

ADDITIONAL PROJECTS WHICH EXAMINE COMPLEX INTERACTIONS BETWEEN FACTORS NOW BEING EXPLORED BY THE BOARD--SUCH AS THE WAY BLIND AND LOW VISION PERSONS USE SOUND IN ADDITION TO SURFACE TEXTURE TO NAVIGATE IN POTENTIALLY DANGEROUS AREAS (FOR EXAMPLE, ON SUBWAY PLATFORMS)--MAY BE NECESSITATED.

THE BOARD WILL CONTINUE TO SEEK OPPORTUNITIES TO COOPERATE WITH OTHER AGENCIES IN THE RESEARCH AREA. THIS WILL INCLUDE THE REGULAR REVIEW OF OTHER AGENCIES' RESEARCH PRIORITIES TO AVOID DUPLICATION AND PARTICIPATION AS PEER REVIEWERS ON OTHER AGENCIES' PROPOSAL REVIEW GROUPS. THE BOARD WILL ALSO CONTINUE TO SERVE ON THE INTERAGENCY COORDINATING COMMITTEE ON HANDICAPPED RESEARCH.

TECHNICAL ASSISTANCE

THE BOARD HAS ALSO PLANNED AN AGGRESSIVE TECHNICAL ASSISTANCE PROGRAM FOR FY 1987 TO ADDRESS ACCESSIBILITY RELATED ISSUES. THE BOARD WILL CONTINUE TO PROVIDE TIMELY TECHNICAL ASSISTANCE PARTICULARLY WITH RESPECT TO THE REQUIREMENTS OF THE UNIFORM FEDERAL ACCESSIBILITY STANDARD, PREVIOUS ARCHITECTURAL BARRIERS ACT STANDARDS AND OTHER AGENCY STANDARDS AND GUIDELINES, AS WELL AS ON THOSE ISSUES NOT FULLY COVERED BY THE GUIDELINES OR ANY OTHER STANDARD. THIS INCLUDES PEDESTRIAN WAYS, TRANSPORTATION STATIONS AND PLATFORM LIFTS.

IT IS ALSO ANTICIPATED THAT THE BOARD WILL BE ABLE TO IMPLEMENT THE RESULTS OF THE BOARDING CHAIR PROJECT.

COMPLIANCE AND ENFORCEMENT

WITH RESPECT TO ITS COMPLIANCE AND ENFORCEMENT RESPONSIBILITIES, THE BOARD PLANS TO CONTINUE TO PROCESS COMPLAINTS QUICKLY, WITH A STRONG EMPHASIS ON VOLUNTARY RESOLUTIONS.

CONCLUSION

I BELIEVE THAT THIS RECORD, AND THE PLANS FOR THE FUTURE, DEMONSTRATE THIS BOARD'S LONG-TERM COMMITMENT TO THE GOALS THAT WE SHARE WITH THIS COMMITTEE. WE HAVE EMPHASIZED OUR RESEARCH AND OUR PLANS FOR CONTINUING WORK ON THE MINIMUM GUIDELINES. SIX AREAS ARE TARGETED FOR POSSIBLE FUTURE RULEMAKING. THESE INCLUDE SIGNAGE, DETECTABLE SURFACE TREATMENTS, HAND ANTHROPOMETRICS, DOORS, RECREATION AND VISUAL SIGNALS. OUR FY 1987 BUDGET REQUEST WILL ENABLE US TO PROGRESS TOWARD ACCOMPLISHING THIS GOAL.

MR. CHAIRMAN, THIS BUDGET HAS BEEN PREPARED WITH SERIOUS CONSIDERATION OF THE FISCAL PROBLEMS FACING THIS COUNTRY. WE HAVE MADE A CONCERTED EFFORT TO CONTROL AND MINIMIZE EXPENDITURES WHILE ENSURING COMPLIANCE WITH OUR CONGRESSIONAL MANDATE BY DEPLOYING BOARD RESOURCES AS EFFECTIVELY AS POSSIBLE. IN SO DOING, WE HAVE SIGNIFICANTLY REDUCED ADMINISTRATIVE COSTS. THIS HAS PERMITTED US TO DIRECT A GREATER PORTION OF THE BOARD'S RESOURCES

INTO THE RESEARCH EFFORT THUS ENABLING THE BOARD TO COMPLY WITH CONGRESSIONAL DIRECTIVES.

I HAVE REVIEWED THE PRESIDENT'S BUDGET REQUEST FOR FY 1987 AND AM EXTREMELY PLEASED THAT, IN THIS CLIMATE OF FINANCIAL BELT-TIGHTENING, HE HAS CHOSEN TO PLACE THE BOARD IN A HIGH ENOUGH PRIORITY TO INCREASE THE BOARD'S FUNDING LEVEL TO THE 1986 PRESEQUESTER AMOUNT.

I SINCERELY HOPE THAT THE CONGRESS WILL FOLLOW THE PRESIDENT'S LEAD AND APPROVE THIS FUNDING LEVEL--THEREBY PERMITTING THE BOARD TO CONTINUE ITS PROGRESS IN CREATING A BARRIER FREE AMERICA.

THANK YOU. WE WILL BE GLAD TO ANSWER ANY QUESTIONS THE COMMITTEE MAY HAVE.

GRAMM-RUDMAN-HOLLINGS IMPACT

Senator BYRD. Recent estimates have indicated that a cut of from 8.5 percent to 12 percent may be necessary to meet the Gramm-Rudman-Hollings deficit target for fiscal year 1987 if tough budget compromises are not reached. How would your agency accommodate cuts of this magnitude in fiscal year 1987?

Mr. HAUSER. Senator, I will be happy to answer any of your questions, but in the interest of time and with your consent, may I ask my assistant, former Board member, Mr. Welch, to answer your questions? I will be happy, if you are unhappy with his response, to add my comments.

Senator BYRD. Very well.

Mr. HAUSER. I would also like to introduce Margaret Milner who is our Executive Director.

Senator BYRD. Hello, how are you.

Mr. WELCH. The budget request from the President for 1987 was $1.975 million which restores us to the 1986 amount prior to sequestration. We would hope that the President's budget would be enacted so that the agency would be spared the cuts you referred to in 1987.

However, we have looked at the possibility that that will not happen. To absorb cuts of that magnitude, there would have to be cuts in research, personnel, and travel. However, we feel that we could do that in a manner that would maintain our ability to perform our primary functions of enforcement of the Barriers Act and providing technical assistance to major Federal agencies on removing architectural barriers.

The reductions would limit our ability to increase public awareness. We have taken the position that the most cost-effective manner to do that is through communication with the Washington offices of the different interest groups, rather than attending out-of-town conventions in such places as Chicago or San Francisco.

AUTHORIZING LEGISLATION

Senator BYRD. Your authorizing legislation for the Board, Public Law 98-221, expires at the close of fiscal year 1986. What legislative recommendations will you be making to the authorizing committees regarding operation of your program?

Mr. WELCH. We have not made and the Board does not plan to make legislative recommendations. We have responded to the legislation that the House Subcommittee on Select Education was proposing, which was the original bill by Representative Williams, proposing three changes in the current legislation.

On the first, which was to increase the number of public members, our initial response agreed with the provision, as we felt that this was consistent with the original legislation prior to the division of HEW into Health and Human Services and the Department of Education.

In looking at it for the future, though, we did not see that there was a need for the majority of members of the Board to be public, because an us/them relationship does not exist between public members and Federal members.

The second provision, which the Board felt was important, was that of the carryover provision for public members when their terms expire. This would maintain the balance when there was a delay in the appointment process.

The final recommendation related to the election of the chairman. The initial bill proposed that the chairman would have to be a public member. The Board opposed that based upon the fact that the Board members were best able to recognize who was the most qualified to lead the Board rather than arbitrarily saying it had to come from a preselected group.

The current committee recommendation says that the chairman will alternate between a public member and a Federal member. The Board still feels it would like to have the freedom to choose its own chairman. In the past, if the chairman or vice chairman had been a public member, the other had been a Federal member, and vice versa. However, there has been no requirement for alternating. The Board continues to oppose that requirement.

RULEMAKING ACTIVITIES

Senator BYRD. In what areas will rulemakings be initiated or completed in fiscal year 1986?

Mr. WELCH. We are currently projecting rulemaking in four areas.

The first is a proposed advisory standard for boarding chairs for aircraft. At our Board meeting last week, we authorized publication of a proposed advisory standard on boarding chairs to be published in the Federal Register for comment. This will then be forwarded to the Department of Transportation who can decide whether to undertake official rulemaking.

With regard to our own completion of the minimum guidelines, the standards committee last week directed the staff to proceed on rulemaking in the areas of signage and detectable tactile surface treatments based upon the research which was recently completed in those areas.

The chairman also directed the staff to proceed with proposed minimum guidelines in the area of leased buildings which was reserved pending the outcome of the Rose decision. As the Postal Service, on February 28 chose not to appeal, we are proceeding in that area.

Senator BYRD. One of the Board's major functions is to establish minimum guidelines and requirements for the standards issued under the Architectural Barriers Act as amended. Does the Board have a schedule for completion of those guidelines?

Mr. WELCH. The Board does not have a schedule for completion in that we view the guidelines as a living document. An example of this is that initially no section of the minimum guidelines had been reserved for children's standards.

The Uniform Federal Accessibility Standards, which are based upon the minimum guidelines, like the minimum guidelines were established as adult standards. As we have moved through the rulemaking process, we have seen new areas arise, such as accessibility in elementary schools, which need to be addressed.

So I am not sure we have a date for completion. With regard to how many of the original sections need to be completed, I would like to ask Margaret Milner, the Executive Director, who has a more technical background to fill you in on that.

Ms. MILNER. There were three principal areas reserved in the minimum guidelines at the time of their publication. One was the section dealing with specifications for signage. The second was the section dealing with what is called in current standards tactile warnings. We are now referring to those as detectable tactile surface treatments.

In addition, the minimum guidelines did not develop a subpart (e) to deal with special building and facility types. The section on windows was also reserved. There were two other small portions that were reserved, one dealing with elevator door timing, and the other dealing with the opening forces for exterior doors.

However, it is important to note that the fact that these are missing from the minimum guidelines does not mean that there are no accessibility standards dealing with those areas, because the Uniform Federal Accessibility Standards, issued by the Federal agencies, deal with each of those areas except the sections on windows, the exterior door opening forces, and the section on detectable tactile surface treatments.

We are intending to begin rulemaking to publish a proposed rule in fiscal year 1987 on signage and detectable tactile surface treatments.

SUBMITTED QUESTIONS

Senator BYRD. I thank you all for coming. I am going to submit some questions on behalf of the chairman and Senator Chiles and Senator Weicker for the record, and we will appreciate your response as soon as possible.

[The following questions were not asked at the hearing, but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

ACCESS FOR HANDICAPPED AIR TRAVELERS

SENATOR ANDREWS: Last year before this subcommittee, Board Vice Chairperson Madeleine Will testified that the Board hoped to issue an advisory standard for chairs used to assist elderly and disabled air travelers on and off commercial airlines sometime in FY 1986. This follows a request for comments in the Federal Register in September 1984. Has this advisory standard been issued? If so, when? If not, why?

ANSWER: In September, 1985, the Board signed a contract with the American Institutes for Research to produce an advisory standard and a user's manual. The draft standard has been reviewed by the Board, the National Transportation Facilitation Committee subgroup on Air Travel Accessibility, and independent reviewers selected by the contractor. Reviewers include Federal agencies, large and small air carriers, wheelchair and boarding chair designers and manufacturers, rehabilitation specialists and engineers, and disabled consumers. At its March meeting, the Board voted to publish the proposed advisory standard in the Federal Register for public comment. The contractor is scheduled to deliver the final documents, revised as necessary after public comment, by September 30, 1986.

RULEMAKING STATUS

SENATOR ANDREWS: In July 1985, the Board created a position of Director of Research to focus on completing reserved sections of the "Minimum Guidelines and Requirements for Accessible Design" (MGRAD). A research and rulemaking schedule provided to this committee last year indicated that you intended to begin rulemaking in the areas of signage, tactile surface treatments, controls and operating mechanisms, and telephones during FY 1986 in order to complete reserved sections of the minimum guidelines. What is the status of these rulemakings?

ANSWER: At the November 1984 meeting, the Board directed staff to distribute copies of the research reports on signage and detectable tactile surface treatments to a broad spectrum of government and private sector parties for review and comment. The results will be made available to a working group composed of the Board and the four standard-setting agencies which will make recommendations on possible sections for the minimum guidelines. The Board will review recommendations on detectable tactile surface treatments at its May meeting and signage in June. Rulemaking in these areas could begin in early FY 1987. Possible rulemaking on controls and operating mechanisms is not scheduled until after completion of our current research project on hand anthropometrics. The Board also has a project, through an interagency agreement with the Department of Transportation, to demonstrate telecommunications devices for deaf persons (TDD) at two airports. This project may lead to the issuance of an advisory standard rather than formal rulemaking.

SENATOR ANDREWS: Were any rulemaking actions begun or completed in FY 1985? If not, why not?

ANSWER: No rulemaking on the Board's Minimum Guidelines and Requirements for Accessible Design (MGRAD) was initiated in FY 1985. However, the process of developing rules was begun by the Board circulating research reports for comment in order to evaluate findings before using them to draft regulatory language.

SENATOR ANDREWS: If it were assumed that $350,000 per year was provided for research, when could these guidelines be completed?

ANSWER: The Board anticipates that research findings applicable to the reserved sections of the Minimum Guidelines and Requirements for Accessible Design (MGRAD) should permit completion of most such sections by 1990. However, as a "living document," the MGRAD is "open" and may need to be revised thereafter to reflect advances in knowledge, new construction materials, and other factors. The Board will need, therefore, approximately $350,000 annually for research through FY 1990 and perhaps less thereafter as the need to complete reserved sections is alleviated.

SENATOR ANDREWS: Does the Board have an estimate of the total amount necessary (dollars and time) to complete the guidelines? If so, please provide. If not, please provide an estimate for the Committee.

ANSWER: The Board has not officially determined the level of research funding that would be required to complete reserved sections of the MGRAD. However, if--as we believe is likely--research results will permit us to complete most reserved sections by 1990, approximately $1.5 million would be necessary, spread over FY 1987-1990. Additional sums could be needed thereafter to update our knowledge and to revise some MGRAD sections to reflect the state-of-the-art in accessible design, or the Board could rely on utilizing research findings from other sources.

SENATOR ANDREWS: Provide for the record an update of the research and rulemaking schedule on Page 839 of the 1986 Senate Hearing 99-336, Part 1.

ANSWER: The Board plans to begin the MGRAD rulemaking process with research findings from the Detectable Tactile Surface Treatments (DTST) project, which was recently completed. The second round of rulemaking, tracking the same sequence, will be on Signage project results. Thereafter, at regular intervals, sections on hand-operated controls and mechanisms, visual alarms, and other provisions will be considered. Following is the current schedule on DTST:

March 1986:	Standards Committee authorized staff to proceed with preparation of recommended DTST provisions.
April 1986:	Board staff and staff from four standard-setting agencies to meet to review research project recommendations on DTST.
May 1986:	Board expected to authorize development by staff of draft MGRAD provision on DTST.
Sept. 1986:	Board expected to approve publication of Notice of Proposed Rulemaking (NPRM).
Feb. 1987:	Board expected to approve publication of final rule on MGRAD provision on DTST.

As noted earlier, signage provisions will be considered on a similar schedule, perhaps one month or one Board meeting behind DTST at each step. Following will be consideration of other areas now reserved.

RESEARCH FUNDING

SENATOR ANDREWS: Why does the level of research funding fluctuate from $398,000 in FY 1985, down to $347,000 for FY 1986 and then back up to $388,000 for FY 1987?

ANSWER: In May of 1985, staff of the Transportation subcommittee met with the Chairperson, Charles Hauser, to discuss concerns that the committee had expressed related to the level for funding of research--concerns which had been expressed in the 1985 Appropriation Committee Report. Based upon that information, the Board began to reevaluate both the spending priorities for the then current Fiscal Year 1985 and the method of planning budgetary priorities for future years. With regard to Fiscal Year 1985, the Board was able to find substantial savings in the area of staff travel, printing and reproduction, and overall personnel compensation. These savings were immediately reprogrammed into the FY 1985 research budget. Some of these savings were such that they could not have been projected in advance. However, due to the new method of developing budget priorities, many of these cost savings could be carried over in future years--thus, the increase in the FY 1986 estimated level of research, from $253,000 as stated in the FY 1986 budget justification to $347,000 as stated in the FY 1987 budget justification. As the Board moved into planning the FY 1987 budget, it was able to add additional funds to the area of research as a result of having purchased word processing equipment on a lease-to-purchase basis with decreasing costs as years passed. It is our hope that as each fiscal year progresses--both in FY 1986 and in future years--additional funds which may become available due to unforeseen cost savings, will be reprogrammed, thereby increasing the research budget still further.

SENATOR ANDREWS: The Committee is pleased to note that in response to continuing concerns over the level of research funding necessary to allow completion of the Minimum Guidelines and Requirements," your FY 1985 actual funding for research was $398,000. In what areas did you make reductions in order to meet this higher than originally estimated level?

ANSWER: The Board, following Charles Hauser's May meeting with Transportation subcommittee staff, reviewed the budget in an attempt to more accurately reflect committee concerns. In order to accomplish this, the Board achieved savings in the areas of personnel, travel, communications and utilities, printing, and other services, and directed these savings into the research area.

SENATOR ANDREWS: The Committee recognizes that its FY 1986 direction in Senate Report 99-152 stating that "of the funds programmed, $350,000 be used for necessary research" has generally been complied with. Nevertheless, why was it necessary to reduce research funding in 1986 from the Committee recommended level and from the FY 1985 level of $398,000 by $51,000? (Especially given that the 1987 request increases it again by $41,000 to a total of $388,000) For what other purposes was this funding used for? Why did they have a higher priority?

ANSWER: In reaching the estimated $347,000 expenditure for research for FY 1986, the Board significantly increased the original estimate of $253,000 presented in the FY 1986 justification of appropriation estimate which was submitted in January 1985. This was done by achieving savings in virtually all other areas of the budget.

This effort to direct all available funds into research was further exemplified by maintaining the $347,000 research level after the Gramm-Rudman-Hollings sequestration order that resulted in an $85,000 reduction for the Board. The $41,000 increase in the FY 1987 research estimate reflects the priority placed on completing the minimum guidelines by the Administration, which recommended an $85,000 increase for the Board in FY 1987 over the FY 1986 post-sequestration level. It is the hope of the Board, both in FY 1986 and 1987, that within the levels requested, additional funds will be found to continue the process of increasing the amounts available for research.

COMPLAINTS PROCESSING

SENATOR ANDREWS: Your budget justification states that during FY 1985, the Board received 249 complaints regarding compliance with accessibility standards, a 6.5 percent increase over the number received during FY 1984. In fact, according to your Annual Report for 1985, the number of complaints received has increased steadily over the past 5 years. Do you anticipate that the number of complaints will continue to increase in 1987 and future years?

ANSWER: The number of complaints received thus far in FY 1986 has decreased slightly from the number which was received at this time in FY 1985. It is impossible to say whether this decrease will continue as a trend in 1986 and future years.

SENATOR ANDREWS: To what factors do you attribute this continuing increase in accessibility complaints?

ANSWER: The Board attributes the increased number of complaints received during FY 1984 and FY 1985 to a better understanding and broader awareness of the ATBCB and its services.

SENATOR ANDREWS: In your estimation, is this a measure of your program's effectiveness or ineffectiveness?

ANSWER: To the extent that the number of complaints reflects public awareness of and reliance on the Board for removal of accessibility barriers in buildings under its jurisdiction, this is a measure of our program's effectiveness.

SENATOR ANDREWS: Your budget justification states that "Improvements in the Board's computer tracking system, enable the Board to handle effectively consistent increases in the number of complaints". In 1985, the Board closed 195 complaints, 129 of which were closed for lack of jurisdiction. However, of the 249 complaints received in 1985, 178 remain unclosed at the end of the year. This increased your already existing backlog to 248 cases. Will you ever be able to eliminate this backlog given the continual increase in complaints? If so, how?

ANSWER: The improvements in the Board's complaint processing procedures have enabled us to handle the consistent increases in the number of complaints.

In any enforcement agency that receives complaints on an ongoing basis, there will always be a backlog due to the processing time required. Although there were 178 cases still open from FY 1985 when the Report to Congress was published, it should be noted that the average time to process a complaint from start to finish is approximately 6.37 months. This means that complaints received at the end of FY 1985 had just begun to undergo processing and would remain in the backlog for the normal processing time of several months. As of March 1, 1986, the number of FY 1985 cases still open had been reduced from 178 to 154.

SENATOR ANDREWS: Why is there such a backlog when so many complaints appear outside your jurisdiction?

ANSWER: Complaints which are ultimately determined to be outside the scope of the Board's jurisdiction must still be processed. Much of the time which is devoted to processing complaints is spent on determining the jurisdictional issues. For instance, before a determination of no jurisdiction over a facility is made, we must first find out who owns, leases, occupies and has responsibility for the facility; whether Federal grants or loans were made for design, construction or alteration of a facility and the dates for such grants or loans; whether a Federal agency directly funded design, construction or alteration after the effective date of the Architectural Barriers Act; and whether legal research indicates that a grant or loan used is the type which is covered under the Architectural Barriers Act. Because of the time it takes to conduct these investigative activities, the processing of complaints for which no jurisdiction is ultimately determined contributes to the backlog.

SENATOR ANDREWS: The 1985 Annual Report states that the Board's computer tracking system is being modified to provide more accurate and useful statistical breakdowns of different complaint categories. What information does this system currently track?

ANSWER: The Complaint Tracking system is composed of a series of fourteen logical record formats. Each logical record format contains a class of pertinent data about the complaint. These classes include: complaint identification; facility identification; referred to agency identification; interested party identification; complaint nature; waivers granted against the facility; citations issued; administrative law judge assignment; orders issued; hearings set/held; complaint disposition; telephone log; document log.

SENATOR ANDREWS: What modifications are being made to the system?

ANSWER: We have expanded the code tables to more accurately reflect the reasons for closing complaints and we have developed a computer report to summarize the breakdown of the different complaint categories. This will enable us to determine the number of cases where corrective action was taken voluntarily, even though we had no jurisdiction.

SENATOR ANDREWS: How much will operation of the computer tracking system cost in FY 1986 and 1987? What is the cost per complaint?

ANSWER: In FY 1985 the ATBCB spent $19,877 for the lease of ITT terminals, and for time sharing cost of an IBM Main Frame computer, owned by Fairfax County, Virginia. Of this $19,877, 30.5% or $6,058 was spent on the Complaint Tracking System (CTS). In FY 1986 and 1987 this percentage should remain the same.

At the end of FY 1985 there were 1,427 complaints in the CTS data base, making an average annual cost of $4.24 per complaint in the data base.

SENATOR ANDREWS: What is the average time to handle a complaint to closing?

ANSWER: In October 1985, Board staff examined all complaints received from October 1, 1984, to June 28, 1985, to determine the average amount of time that a complaint is open. The average time was found to be 191 days.

SENATOR ANDREWS: What is the average time it takes to determine a case should be dropped for lack of jurisdiction?

ANSWER: The average processing time required to close complaints for lack of jurisdiction is 126 days.

TECHNICAL ASSISTANCE

SENATOR ANDREWS: Last year, Vice Chairperson Madeleine Will stated before this subcommittee that the Board anticipated that technical assistance needs may increase somewhat now that the Uniform Federal Accessibility Standard is published and as agencies more fully implement section 504 in their own programs. Was this prediction borne out in FY 1985 and the first half of FY 1986?

ANSWER: The Uniform Federal Accessibility Standards (UFAS) were originally published on August 7, 1984 (49 Fed. Reg. 31528) and apply only to buildings and facilities covered by the Architectural Barriers Act which were designed, constructed, or altered after that date. Moreover, the printed edition, coordinated by the Board, has only been available since February 4, 1986. While the Board has received some requests for technical assistance on UFAS, it is still too early to determine the full impact.

However, we anticipate UFAS will result in an increase in requests, not only for additional copies and explanations about this document but also for provision of UFAS training to Federal agencies.

While our new edition of UFAS was in production, a total of 143 requests for about 1450 copies of the document were received. Also, as awareness of this document spreads, requests are expected to increase from other audiences, such as private/public non-profit organizations, professional and trade associations, model and state code officials, state and local governments, educational institutions and libraries with architectural/accessibility-related areas of emphasis and those members of Congress who have an interest in the accessibility area.

Once UFAS is widely distributed, we anticipate that a variety of requests for technical advice and assistance will arise. Already the Board's technical staff has given UFAS training to one Federal agency (another agency has requested UFAS training which will be provided in the future) and has provided explanations to several other Federal agencies on how the Board's minimum guidelines and requirements relate to UFAS provisions.

SENATOR ANDREWS: Is technical assistance requiring an increasingly larger percentage of the Board's resources than in previous year? Why or why not?

ANSWER: The level of funding devoted to technical services has not changed significantly from the prior two years except in the area of funding for publications and staff travel. An extensive review of the Board's publications enabled us to focus our printing budget on those publications that were most effective and that directly addressed our primary technical assistance efforts. The decrease in staff travel will affect the Board's technical assistance efforts by placing more emphasis on coordination with others, such as the Federal agencies themselves and national offices of private sector organizations, in carrying information to field sites.

SENATOR ANDREWS: Is the Board planning any new publications for FY 1987? If so, how much are they anticipated to cost? From what sources will any such publications be funded?

ANSWER: Yes, the Board does plan new publications for FY 1987, funded as a line item in our budget. The amounts budgeted for the three categories of publications are:

Newsletter (quarterly publication)	4,000
Publications (basic informational materials)	4,000
Research reports and bulletins	4,000

SENATOR ANDREWS: Please list the types of technical assistance provided and whether this was due to a request or self initiated?

ANSWER: The Board provides a broad range of technical services on issues related to design, construction, and alteration of buildings and facilities covered by the Architectural Barriers Act (ABA), information and referral on other agencies' research, product information, transportation planning, and the like. All of these requests were from outside the Board.

In the past, types of technical assistance projects have been:

° New UFAS Publication: Coordination of production of the reprint edition of the Uniform Federal Accessibility Standards (UFAS), which is printed with typography and format that enhance its readability and which includes a Board-developed index that significantly aids usability. This index is being adapted for publication with the 1985 ANSI A117.1 standard, on which the UFAS is based. The UFAS edition was funded by the four standard-setting agencies.

° Technical Assistance Inquiries: In addition to responding to inquiries of a more general nature, the Board provided responses to approximately 8,000-10,000 technical inquiries having specific questions on accessibility primarily related to design, construction, and alteration of buildings and facilities. This information is based on the analysis of data collected by the Board during workload measurement.

In support of its technical services efforts, the Board developed extensive materials for answering frequently asked questions related to accessible design and funding sources for modifications. These materials include: selected bibliographies and resource lists, form letters, packets of information, and local resources in both the public and private sectors.

° Technical Library: The technical library's collection of manufacturers' product literature has been updated and expanded to meet public and agency request for information on both architectural products and assistive devices.

The computer system, which makes possible the efficient operation of the library with minimum staff support, has been enhanced. It now allows for the automated data entry and search and retrieval of both State and model accessibility code information and abstracts of significant library documents.

An example of the capability of the library system was the development, in response to a Department of Justice request, of in-depth information on State access code requirements which apply to small or two-story buildings.

The information was compiled to assess conflicts which potentially exist between UFAS and State codes.

- ANSI A117.1 Committee: As a member of the ANSI Committee, the Board participated in task forces that developed recommended revisions to the Standard and commented on proposed changes for the 1985 edition of the American National Standards Institute (ANSI) A117.1 accessibility standard.

SENATOR ANDREWS: To whom does the Board provide technical assistance? (Federal agencies, private organizations, individuals ...) Could this assistance be reimbursable?

ANSWER: As required by law, the Board provides technical assistance to any entity whether Federal, state, or local government or private sector entity or individual. However, to maximize scarce resources and ensure maximum accessibility to buildings and facilities covered by the Architectural Barriers Act, the Board is concentrating on providing assistance to Federal agencies.

The Board's technical assistance requests vary widely. While the Board places priority status on requests from Federal agencies, every attempt is made to answer all requests in a timely way.

Because technical assistance is a statutory responsibility, the Board has never considered placing the services on a reimbursable basis. If Congress requests, the issue can be researched to determine whether the Board legally could require payment for technical assistance.

GRAMM-RUDMAN-HOLLINGS IMPACTS

SENATOR ANDREWS: Your budget justification indicates that in response to the FY 1986 cuts required by Gramm-Rudman-Hollings, you intend to reduce personnel compensation for permanent positions by $74,000, or 8.3 percent (from $895,000 to $821,000). How will this be accomplished?

ANSWER: This reduction was due to savings already generated from delays in filling several fulltime permanent position vacancies that were unrelated to the sequestration.

SENATOR ANDREWS: Do you anticipate furloughs or reductions-in-force (RIFs)?

ANSWER: No furloughs or reductions-in-force are anticipated for FY 1986.

GOALS AND OBJECTIVES

SENATOR ANDREWS: What are the primary goals and objectives of the Board for FY 1987? Please elaborate for the record.

ANSWER: The Board will continue to focus its attention in four major areas: compliance and enforcement, technical assistance, research, and completing the reserved sections of the Board's Minimum Guidelines and Requirements for Accessible Design. In the compliance and enforcement area, the Board's goal is to insure compliance with the standards prescribed pursuant to the Architectural Barriers Act of 1968. To carry this out, the Board's objective will be to:

- Process complaints received by the Board in a timely manner.
- Emphasize securing voluntary corrective action wherever possible.
- Provide legal services in connection with litigation, compliance and related matters.

The Board's goal in the research area is to develop a body of information that will enable the Board to complete reserved sections of the Minimum Guidelines and Requirements for Accessible Design. Research objectives are to:

- Plan, develop and implement a research program based on annual research priorities.
- Investigate and examine alternative approaches to eliminating architectural, transportation, communication and attitudinal barriers confronting handicapped individuals particularly with respect to telecommunication devices, public buildings and monuments, parks and parkland, public transportation and residential and institutional housing.

In the technical assistance area, the objective is to provide appropriate technical assistance to any public or private activity, persons, or entity affected by regulations prescribed pursuant to Title V with respect to overcoming architectural, transportation and communications barriers. Specific objectives are to:

- Develop appropriate technical assistance mechanisms to insure that public conveyances, including rolling stock, are readily accessible to and usable by handicapped persons.
- Plan and develop technical and informational programs in coordination with standard prescribing agencies, other interested Board members, and other concerned Federal departments and agencies for the purpose of assisting the public and private sectors in better understanding the accessibility needs of disabled persons.
- Provide Federal agencies with assistance and guidance in developing compliance systems, as requested, which ensure that Federal agencies, departments and instrumentalities comply with Federal accessibility requirements.

SENATOR ANDREWS: Last year, Vice Chairperson Madeleine Will stated before this subcommittee that the Board's FY 1986 research program targets four critical areas for action: recreation, transportation, alarms, and surface treatments. Are these still the priority areas for FY 1986? What efforts are underway in these areas as a result of this priority designation? Please elaborate for the record.

ANSWER: Yes, although a Doors project and a demonstration project with the U.S. Department of Treasury also are FY 1986 priorities. The Board has funded efforts in each priority area:

- ° Recreation: a technical paper, expected to be completed by September 1986;
- ° Transportation: two interagency agreement projects with U.S. Department of Transportation, one on TDDs in airports and one on wheelchair tiedowns and lifts for buses. The "TDDs in Airports" project is expected to be completed in mid-FY 1987, while the bus tiedowns and lifts project is expected to be completed prior to the end of this fiscal year;
- ° Alarms: the "Alarms Documentation Project" is identifying the current states of visual, auditory, and other alarms and alarm systems nationwide;
- ° Surface Treatments: one project on "Slip-resistant Surfaces" is tentatively planned for funding later this year subject to funds availability;
- ° Doors: one project is expected to be awarded later this year; and
- ° TDD Relay: a one-year pilot project demonstrating a Federal TDD relay has been funded through an interagency

agreement with the U.S. Department of Treasury and will be completed by mid-FY 1987.

AUTHORIZING LEGISLATION

SENATOR ANDREWS: Do you believe that the existing program delivery system provides adequate authority to the Board to ensure compliance with accessibility standards issued by the four Federal standard-setting agencies? If so, why? If not, why not?

ANSWER: Yes, there is adequate authority already provided. This is evidenced by the 100% rate of voluntary compliance the Board has been achieving over the past several years, in cases where the Board found jurisdiction and a violation. This is probably due to several factors, including the Board's authority to issue an administrative citation and enforce it if voluntary compliance is not forthcoming, and the willingness of Federal agencies and recipients of Federal funds to correct accessibility problems when brought to their attention.

SENATOR ANDREWS: Could anything be done legislatively to expedite completion of the Minimum Guidelines and Requirements for Accessible Design? If so, what?

ANSWER: Completing the Minimum Guidelines and Requirements for Accessible Design (MGRAD) is not a function of legislative changes, but rather reflects the reality of necessary work that must be undertaken sequentially. There is a certain lead time required to plan and implement research projects, which when completed must be followed by a period of collecting comments from affected groups, before consideration of MGRAD changes can begin. We are now at the stage where the Board is preparing for rulemaking on the findings of some of our earliest projects. As other projects are completed, further rulemaking will ensue.

NATIONAL COUNCIL ON THE HANDICAPPED

SENATOR ANDREWS: The National Council on the Handicapped was created along with the ATBCB by the Rehabilitation Act of 1973. This council was initially an Advisory Board within the Department of Education. In 1984, the Council was transformed into an independent agency by the Rehabilitation Act amendments of 1984. The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting the handicapped and making such recommendations as it deems necessary to the President and Congress. There appears to be considerable common ground between this council and the ATBCB. What is the working relationship of the ATBCB with the National Council on the Handicapped?

ANSWER: Last year, the White House organized a meeting of the Chairpersons and Executive Directors of the National Council, the ATBCB, and the President's Committees on Employment of the Handicapped and on Mental Retardation. Since then, the Executive Directors of both agencies have agreed to maintain regular contact and share information, plans, and related concerns. Of course, the ATBCB and the National Council also jointly serve on a number of interagency committees and working groups. The ATBCB shares many interests with the National Council on the Handicapped. At the staff level, technical and program specialists from each of the agencies are in frequent contact.

SENATOR ANDREWS: Are there duplications or overlaps of functions and responsibilities between the two agencies?

ANSWER: The responsibilities of the ATBCB are very clear-cut. The statutory mandate of the ATBCB is directed toward the elimination of architectural, transportation, attitudinal and communication barriers. The National Council's mandate, on the other hand, is directed to broad concerns for individuals with developmental disabilities and specific responsibilities relating to the National Institute of Handicapped Research (NIHR) as well as general research affecting handicapped individuals. In addition, of course, the Council was directed to produce its recent report. To the extent that the ATBCB conducts research and cooperates with NIHR, and to the extent that barriers may be at issue in areas under the National Council's jurisdiction, there may be some overlap. Any overlap, however, is complementary rather than competitive or redundant.

SENATOR ANDREWS: Are the activities of these agencies coordinated in any fashion?

ANSWER: Because our major activities and responsibilities are in different areas, there is no formal coordinating mechanism. We do maintain a working relationship and, as noted, do share an interest in, and participate in cooperative efforts for, such areas as the National Institute for Handicapped Research.

REPORT TO CONGRESS

SENATOR ANDREWS: The Rehabilitation Act amendments of 1984 (P.L. 98-221) directed the National Council on the Handicapped to submit a report to Congress and the President analyzing Federal programs and presenting legislative recommendations to enhance the productivity and quality of life of Americans with disabilities. This report, submitted to Congress last month, included several recommendations related to the operations of the Board. What input did the Board have on this report?

ANSWER: The Board did not have formal input to the report. Information about the Board's operations and budget were, of course, provided. In addition, some Board staff members provided resource materials during the development of the report.

SENATOR ANDREWS: There are several recommendation within this report that relate to the responsibilities of Board. What is your position on each of the following recommendations from that report:

- The ATBCB should be given the authority and responsibility to issue minimum guidelines for universal accessibility and other standards for the removal of architectural, transportation, and communication barriers in facilities vehicles, programs, and activities covered by the Equal Opportunity Law for people with disabilities.
- Provisions establishing the ATBCB should be amended to provide that public members of the Board shall continue to serve at the expiration of their terms until their successors have been appointed and are ready to serve.
- Congress should amend section 16 of the UMTA Act to require full accessibility to mass transportation to be achieved over a realistic period of time.
- Congress should amend the Architectural Barriers Act of 1968 to establish DOT as a standards-setting agency for the development of access standards for buildings, facil-

ities, and public conveyance, including rolling stock and aircraft, which are designed, altered, constructed, or purchased with Federal funds to insure that they are readily accessible and usable by disabled and elderly persons. This recommendation would clearly establish DOT as the standard-setting agency for accessible Transportation under the Architectural Barriers Act.

- Congress should amend the Federal Aviation Act to:
  - A. Prohibit discrimination on the basis of disability by all airlines using federally assisted airports.
  - B. State that all airlines using federally assisted airports are subject to the provisions of Section 504 of the Rehabilitation Act of 1973 and regulations promulgated thereunder.
- Congress should extend coverage of handicap nondiscrimination requirements to interstate commerce, thus prohibiting such discrimination by intercity and interstate bus companies.

ANSWER: The ATBCB has not taken an official position on any of the recommendations of the National Council report.

After the release of the report in February, copies were sent to all ATBCB members and the Board did discuss them in general terms at the meeting of the Board and its Committees on March 10-12, 1986. Because the National Council recommendations are far-reaching and could have an impact on ATBCB staffing and budget, the Board chose not to take any positions on the recommendations until there was sufficient time to analyze them and ascertain all the possible implications, including potential effects on the Board itself as well as on other Federal agencies and nongovernmental organizations.

The recommendations to permit public Board members to carry over at the end of their terms until their successors have been appointed is one issue on which the Board has held full discussions. There is a consensus for supporting this recommendation among the ATBCB members.

INTERAGENCY COORDINATING COUNCIL

SENATOR ANDREWS: A Cabinet-level Council was established by the Rehabilitation Act of 1973 to coordinate the Federal implementation and enforcement of Title V of the Rehabilitation Act and make recommendations, when appropriate, to Congress for legislative and administrative change. The Federal agencies represented on the Council are the Departments of Labor, Education, Justice, and Health and Human Services, the Office of Personnel Management, the Equal Employment Opportunity Commission and the ATBCB. When was the last time this Council met?

ANSWER: The Interagency Coordinating Council (ICC) has met several times over the past fiscal year, most recently on February 12, 1986.

SENATOR ANDREWS: Has the Council made any recent recommendations for legislative or administrative changes that would affect the ATBCB?

ANSWER: The Council has made no recent recommendations for legislative or administrative changes that would affect the ATBCB. On the agenda for the next meeting, scheduled for April 9, is a proposal for a Federal Register notice to be published jointly by the Board and the Departments of Justice and Treasury regarding the pilot project for a TDD relay system that the Board is initiating with Treasury.

SENATOR ANDREWS: What is the ATBCB position on any such recommendations?

ANSWER: There have been no recommendations from the Council affecting the ATBCB that called for a Board position.

BLIND AIRLINE PASSENGERS

SENATOR ANDREWS: Mr. James Gashel of the National Federation of the Blind recently alleged in a letter to the House Public Works and Transportation Aviation Subcommittee that airlines are discriminating against blind passengers. Practices cited include requiring blind passengers to be pre-boarded, even if they do not wish to do so; requiring blind persons to receive a special briefing and to answer questions to show that they understand the briefing; requiring blind persons to be seated next to persons of the same sex, requiring blind persons to sit on blankets; and statements by flight attendants to blind passengers that in the event of an emergency, blind persons may not leave the aircraft until all other persons have left the aircraft. Many of these practices seem to be unrelated to safety concerns. Is the Board aware of these allegations?

ANSWER: Some of the problems reported by blind air travelers have been discussed by the Board's Transportation Committee but more extensive discussions have taken place in the working group created by the Board in 1984 and by the National Transportation Facilitation Committee subgroup on Air Travel Accessibility. In addition, Board staff have participated in meetings of Access to the Skies, a private sector program, where these issues have been discussed from time to time and have made reports back to the Board committees.

However, the service aspects of these problems are under the jurisdiction of the Department of Transportation.

SENATOR ANDREWS: Are there regulations in effect that would prevent these types of discrimination?

ANSWER: The issue of regulations in this area is currently under litigation. The Civil Aeronautics Board (CAB) Sunset Act of 1984 transferred to the Department of Transportation (DOT) the rule which the CAB originally promulgated in 1982, under section 504 of the Rehabilitation Act of 1973, as amended. The specific provisions of Subpart B of that rule currently apply only to directly subsidized carriers, approximately eight small airlines. Suit was brought by the Paralyzed Veterans of America and oral arguments were heard by the Supreme Court on March 26, 1986. Whether these reported problems are specifically prohibited by the 504 rule is a legal question which the Board has not investigated. Moreover, the Board has reserved comment on the court case until all the legal issues are settled.

SENATOR ANDREWS: Are such regulations limited to federally assisted airports?

ANSWER: No, regulations covering service provided to handicapped passengers by air carriers are separate and distinct from those regulations which cover federally assisted airports. The original Civil Aeronautics Board (CAB) 504 rule, now transferred to the Department of Transportation (DOT), covers services provided by certificated air carriers independent of whether such carriers use federally assisted airports.

Whether all carriers which use federally assisted airports should be covered by the service-provision rules promulgated by CAB is currently an issue before the Supreme Court.

SENATOR ANDREWS: Would you support legislation to expand the Board's authority under section 504 of the Rehabilitation Act of 1973 to cover all airlines using federally assisted airports? Please elaborate.

ANSWER: The National Council on the Handicapped has proposed legislation which would extend the Board's authority in this area. Board staff provided all members with a summary and highlighted copies of the Council's report. However, the Board has not specifically addressed this or any other potential legislation which might extend the Board's authority. The Board does intend to devote a portion of its next meeting to discuss possible legislative changes.

WHITE CANES

SENATOR ANDREWS: What are the current restrictions regarding the use of white canes by blind airline passengers?

ANSWER: The Federal Aviation Administration currently has rules restricting the carriage of white canes. Folding canes may be retained by blind passengers. Rigid canes which are short enough to be placed on the floor under the seat without intruding into the aisle space may also be kept at the seat. Longer canes which cannot be safely stowed under the seat must be stowed in a carry-on luggage closet or in the hold. These regulations were promulgated by FAA under its authority to ensure air safety and apply to all certificated carriers whether or not they receive a direct Federal subsidy or use federally assisted airports.

SENATOR ANDREWS: In your opinion, are there legitimate safety concerns related to the carrying or stowage during flight of white canes?

ANSWER: Discussions on these issues during Access to the Skies conferences and Air Travel Accessibility subgroup meetings indicate that the safety concerns are not clear cut. Since the Board has not been directly involved in promulgating rules in this area, it has not specifically discussed the issues or taken any position. However, these issues are expected to be addressed to some extent by the "Mobility Aid Stowage Technical Paper" for which a contract is to be awarded in June.

Of course, if the Department of Transportation decides to pursue rulemaking in this area, it will consult with the Board.

SENATOR ANDREWS: Do you have any research or rulemaking planned in this area? If so, what? If not, why not?

ANSWER: The Mobility Aid Stowage Technical Paper planned for June 1986, should be completed by July 1987. The technical paper is expected to partially address some of these issues and identify areas for further research or investigation.

No rulemaking is planned in this area since the Board's jurisdiction is unclear.

ROLLING STOCK ACCESSIBILITY

SENATOR ANDREWS: The Board last year testified before the House Appropriations Transportation Subcommittee that your General Counsel had recommended that the Board begin preparing a comprehensive trans portation action plan which incorporates enforcement of existing standards as well as issuance of a series of Board advisory standards. Some Board members questioned the General Counsel's legal conclusions and the Board, therefore, voted to submit the dispute to the Office of Legal Counsel, Department of Justice. Has this legal dispute been resolved?

ANSWER: The question of the Board's enforcement authority over the accessibility of public conveyances has been submitted to the Office of Legal Counsel, Department of Justice. The Office of Legal Counsel has indicated that its opinion on the rolling stock question will be issued on or about May 1986.

SENATOR ANDREWS: Has the Board implemented the General Counsel's recommendation? If not, why not?

ANSWER: Following the submission of the General Counsel's opinion, the Department of Transportation issued a contrary opinion which concluded that the Board lacks authority to enforce any accessibility standards relating to public conveyances. Due to the question regarding the correct interpretation of the Board's legislative authority, the issue was submitted to the Office of Legal Counsel, Department of Justice.

As the OLC has not yet issued an opinion and the legal questions have not been resolved, the Board has not taken any action with respect to the General Counsel's opinion.

FUNCTIONAL AREAS

SENATOR ANDREWS: The functions of the Board are divided into three broad areas: 1) research and technical services, 2) compliance and enforcement, and 3) administrative. Please provide for the record an update of the table on page 825 of last year's hearing by providing the number of professional and administrative positions in each of the functional areas for FY 1987 and associated personnel compensation and benefits.

ANSWER: The following is the update of the table on page 825 of last year's hearing of the number of professional and administrative positions in each of the functional areas for FY 1987 and associated personnel compensation and benefits:

Research:	1.0 professional	$ 47,418
	1.0 administrative	23,991
Technical services:	6.0 professional	230,131
	1.0 administrative	14,407
Compliance:	4.0 professional	238,109
	3.5 administrative	27,697
Administrative:	4.0 professional	216,857
	6.0 administrative	110,098
11 Board Members:		54,010
	Subtotal	$ 962,718
Benefits:		$116,000

POLICY REPORTS

SENATOR ANDREWS: One of the Board's stated functions is to make recommendations and prepare policy reports to the President and Congress on measures to eliminate architectural, transportation, communication and attitudinal barriers. Have any such recommendations or reports been prepared in the last year? If so, what were the recommendations? If not, why not?

ANSWER: Under its statutory responsibilities, the ATBCB approved one consolidated report to the President and Congress within the past year entitled "Report of the ATBCB for Fiscal Year 1985." While this document does not contain recommendations, it is a comprehensive report on the activities of the Board to eliminate architectural, transportation, communication and attitudinal barriers in FY 1985.

[the information is on file in the Transportation Subcommittee office]

SENATOR ANDREWS: Are any recommendations or reports planned during the remainder of FY 1986?

ANSWER: The ATBCB will provide a consolidated report on its activities to the President and Congress for FY 1986. It is anticipated that the Board will address this report at its November 1986 meeting.

AVERAGE GRADE AND SALARY

SENATOR ANDREWS: The average grade and salary of ATBCB for FY 1985 were 11.80 and $35,808, respectively. The 1986 estimates show a reduced grade level average of 11.34 and an average salary of $38,913, an almost 9 percent increase. Explain the reasons for this increase at a time when the average grade declines.

ANSWER: The salary increase is due to within-grade and merit increases for employees covered under the General Schedule (GS) and the Performance Management and Recognition System (PMRS). These salary increases do not affect grade level.

SENATOR ANDREWS: Your 1986 budget justification estimated the 1986 average salary as $35,801. Explain this discrepancy between 1986 and 1987 budget justifications' estimate of 1986 average salary.

ANSWER: The increase results from increased salaries for those employees covered under the Performance Management and Recognition system established by the Board in late FY 1985. In lieu of step increases in use under the General Schedule (GS), the system of merit increases, which is dependent upon the employee's performance rating, is employed. These merit increases, which can be greater than the step increases employed under the GS system, account for the increase in average salaries.

SENATOR ANDREWS: Provide for the record a breakdown of all Board positions by grade and salary projected for FY 1986 and 1987, and actual for FY 1985.

[The information follows:]

Position Title	FY 1985 Actual		FY 1986 Projected		FY 1987 Projected	
	Grade	Salary	Grade	Salary	Grade	Salary
Executive Director	GS-16	$68,120	GS-15	$58,016	GS-16	$61,324
Special Assistant to the Chairperson	GS-15	19,372	GS-15	54,004	--	--
Director, Office of Administration & Management	GS-15	53,288	GS-15	55,746	GS-15	55,770
General Counsel/Director of Compliance and Enforcement	GS-15	55,213	GS-15	62,714	GS-15	62,714
Director, Office of Technical Services	GS-15	51,089	GS-15	54,004	GS-15	54,037
Special Assistant for External Affairs	GS-14	49,924	GS-14	50,848	GS-14	50,863
Budget Officer	GS-14	45,760	GS-14	48,873	GS-14	48,900
Deputy General Counsel	GS-14	45,021	GS-14	47,392	GS-14	47,418
Transportation Barriers Specialist	GS-14	47,390	GS-14	49,614	GS-14	49,631
Communications Barriers Specialist/Acting Director of Research	GS-14	42,151	GS-14	47,392	GS-14	47,418
Architect (parttime)	GS-14	7,804	GS-14	20,412	GS-14	20,412
Senior Compliance Systems Analyst (parttime)	GS-14	33,949	--	--	--	--
Senior Compliance Systems Analyst (parttime)	GS-13	21,162	GS-13	26,595	GS-13	26,607
Public Affairs Specialist	GS-13	40,108	GS-13	41,787	GS-13	41,801
Architectural Barriers Specialist	--	--	GS-13	37,625	GS-13	37,625
General Attorney	GS-13	26,592	GS-13	37,599	GS-13	37,625
Technical Publications Writer-Editor	GS-13	11,249	--	--	--	--
General Attorney	GS-12	26,573	GS-12	29,738	GS-12	31,633
Barriers Compliance Specialist	GS-12	36,291	GS-12	36,915	GS-12	36,915
Administrative Officer	GS-12	35,016	GS-09	28,820*	GS-11	26,392
Executive Secretary	GS-09	25,304	GS-09	26,183	GS-09	26,183
Program Analyst	GS-09	22,509	--	--	--	--
Program Analyst (intermittent)	--	--	GS-09	11,254	--	--
Technical Services Writer	GS-09	14,295	GS-09	21,819	--	--
Sign Language Interpreter	GS-09	22,149	GS-09	23,545	GS-09	23,991
Legal Writer	--	--	GS-09	17,900	GS-09	21,804
Clerical Management Assistant	GS-05	15,117	GS-05	15,367	GS-05	15,367
Clerk-typist	GS-05	12,664	GS-05	14,556	GS-05	14,887
Clerk-typist	--	--	GS-05	14,407	GS-05	14,407
Secretary	GS-05	13,528	GS-05	18,729	GS-05	18,729
Clerical Assistant	GS-05	6,520	GS-05	7,838	GS-05	14,407
Readers (3 parttime = 1 FTE)	GS-04	9,486	GS-04	12,862	GS-04	12,862

The Board employed students on an intermittent basis for the following amounts:

FY 1985: $21,792
FY 1986: $16,357
FY 1987: $8,968

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* Six months at GS-12; 6 months at GS-9 (vacancy filled at GS-9).

SENATOR ANDREWS: Provide for the record a list of Senior Executive Service bonuses for FY 1984 and 1985, and projected FY 1986, by employee name and amount.

ANSWER: The Board has no Senior Executive Service employees.

PERSONNEL COMPENSATION

SENATOR ANDREWS: Why does FY 1987 compensation for positions other than permanent decrease by $16,000 from the 1986 appropriations pre-Gramm-Rudman-Hollings and $41,000 from the 1986 appropriations adjust for Gramm-Rudman-Hollings at the same time as fulltime equivalents of all other positions increases from 4 to 5?

ANSWER: The FY 1986 appropriation adjusted for Gramm-Rudman-Hollings level was higher than the pre-Gramm-Rudman-Hollings level due to the Board's employing additional temporary employees until the fulltime permanent vacancies are filled.

The FY 1987 level reflects greater use of fulltime equivalents but plans to employ temporaries at lower salary levels.

SENATOR ANDREWS: What activities is the General Counsel of the Board involved in? How many personnel are devoted to the legal issues that involve the Board? Are these personnel lawyers, researchers?

ANSWER: The Office of the General Counsel currently consists of four persons--three attorneys and one secretary, with a new General Counsel and legal editorial and management assistant to join the staff soon. The General Counsel and staff provide legal services to the Board and to the Executive Director. Their activities include legal research and advice on (1) matters pertaining to the administrative and substantive operations of the Board, such as budget, transportation issues, housing questions, and election procedures for the Board, and personnel and administrative matters for the Executive Director; (2) litigation, compliance procedures, and related matters, including working with the Executive Director to determine when and under what circumstances administrative proceedings are to be initiated for unresolved complaints; and (3) legislation and regulatory matters, including drafting and reviewing proposals for legislation and regulations, and preparing reports, testimony, and letters relating to proposed legislation and hearings for Federal, State and local levels.

SENATOR ANDREWS: Among the many, one of the reasons that independent Boards are created is so that they would have the ability to sue and get involved in legal matters. What court cases or rulings has the Board participated in, either as a litigant or friend of the court?

ANSWER: In 1976 the Board entered into the case of Washington Urban League Inc., et. al vs. Washington Metropolitan Area Transit Authority, Inc., as a friend of the court. The Board has not been involved in any other lawsuits other then as a party defendant.

We note that another reason why Congress established the Board as an independent entity lately was to have an agency which could enforce Federal accessibility standards in buildings which are constructed or financed by other Federal agencies. The independent status of the Board has enabled it to do this at the administrative level, without having to resort to litigation in court. We believe that the Board's ability to ultimately pursue cases of noncompliance in Federal Court is a major factor in our achieving voluntary compliance in all cases where the Board has jurisdiction.

SENATOR ANDREWS: How did the Board get involved in these cases? Please explain.

ANSWER: The Board entered into Washington Urban League vs. WMATA as amicus curiae at the invitation of the District Court.

ADMINISTRATIVE OPERATING COSTS

SENATOR ANDREWS: On page 10 of your budget justification you state that the FY 1987 budget request "reflects a reduction in spending below 1985 levels - more specifically a 17 percent reduction in administrative operating costs with a greater portion of Board resources directed to research efforts aimed at completing the minimum guidelines and requirements." In what categories is this 17 percent reduction reflected?

ANSWER: The 17 percent reduction is reflected in the following categories: other rentals, printing, non-research contracts (mailing services, office automation projects), supplies and equipment.

SENATOR ANDREWS: Doesn't the estimated 1987 level of research decrease from the actual 1985 level?

ANSWER: In FY 1987 there is an estimated $18,000 decrease from the actual FY 1985 level for research. Of course, as in FY 1985, the actual spending may be higher than the estimated level if funds are available for reprogramming.

CONSULTING SERVICES

SENATOR ANDREWS: Page 12 of your budget justification shows $16,000 for consulting services in FY 1986, and $0 in FY 1987. Under which heading is this reflected in the object classification on page 5?

ANSWER: Consulting services is reflected under the heading "Positions other than permanent" in the object classification on page 5.

SENATOR ANDREWS: In the object classification on page 5, "all other services" decreases in 1987 by $4,000 from 1986 post sequestration estimate. If consulting services is included in "all other services," what other services will be increased in 1987 from the post-sequestration 1986 level?

ANSWER: Consulting services is included in "Positions other than permanent" category.

UNOBLIGATED BALANCE

SENATOR ANDREWS: The ATBCB lapsed $4,355 in FY 1985. Please explain the reasons for this lapse. Is any lapse projected for FY 1986?

ANSWER: The Board lapsed $4,355 in FY 1985 due to changes in staff travel plans and an overestimate for the payment of attorney fees in a resolved EEO action. The Board does not anticipate lapsing funds in FY 1986.

STANDARD LEVEL USER CHARGES (SLUC)

SENATOR ANDREWS: Explain the 38 percent increase in SLUC from $65,000 to $90,000.

ANSWER: Beginning in FY 1987, the General Services Administration will implement a new system under which agencies will be charged commercially equivalent rates. For the Board, this represents a 38 percent increase with no change in the space utilized.

QUESTIONS SUBMITTED BY SENATOR CHILES

INFORMING THE PUBLIC

SENATOR CHILES: Chairman Hauser, according to your testimony, one of the Board's main responsibilities is to receive complaints about problems and insure compliance with the Architectural Barriers Act. Last year you received 249 complaints. How do you educate the public to know that the Board is available and what the Act requires?

ANSWER: The public is made aware of or educated about the Board in several ways. The agency's basic information pamphlet," "Access America: The Architectural Barriers Act and You," describes the Board and how to file a complaint. Every issue of the agency's newsletter carries a standard "How to File a Complaint" article and another article giving a recap of the number and type of complaints by state. Distribution of other Board publications, correspondence, and telephone calls also educate. In addition, the Chairperson maintains contacts with national headquarters of consumer and other interested organizations, and information is provided about the Board for publication in their newsletters and periodicals.

SENATOR CHILES: I understand that you publish a newsletter. What is the circulation of this and who is the audience receiving it?

ANSWER: Beginning in 1986, the Board's newletter became a quarterly. The current mailing list numbers about 3,000. The audience includes handicapped persons and organizations, architects, social service organizations, media, manufacturers, state and local governments, trade associations, colleges and universities, members of Congress, the legal profession, and others. Anyone so requesting is placed on the mailing list.

SENATOR CHILES: Have you used any mass media announcements, such as public service TV spots?

ANSWER: No, not in recent years.

MANDATORY STANDARDS

SENATOR CHILES: This committee has followed your efforts to develop standards for aircraft boarding chairs. I was pleased to learn that a contract was awarded in September for a technical manual addressing this issue. However, I note that this standard, when issued, will be an "advisory" one only. Does this mean airlines can ignore it if they choose?

ANSWER: Because an advisory standard is a non-binding rule, airline companies cannot be required to conform to its provisions. Nevertheless, these standards could be used to provide technical assistance to public and private entities to ensure the safe enplaning and deplaning of disabled passengers. Also, the standard could be used to supplement existing binding regulations and it could be adopted by Federal, State or local governments as a mandatory regulation.

SENATOR CHILES: Should not the Board have broader powers to enforce standards in the transportation field?

ANSWER: In 1984, the ATBCB General Counsel and the General Counsel of the Department of Transportation issued differing opinions on the Board's authority to enforce standards for rolling stock accessibility. At the direction of the Board, the question was submitted to the Office of Legal Counsel (OLC) Department of Justice, for resolution. The Office of Legal Counsel has indicated that its opinion on the rolling stock question will be issued on or about May, 1986. The OLC decision should resolve the question as to whether complaints concerning rolling stock should be referred to the Board because the Board can enforce standards for vehicles or whether, in fact, the Board's enforcement authority does not extend to rolling stock. There is no dispute that the Board has authority to enforce standards for the design, construction or alteration of fixed transit facilities.

SENATOR CHILES: If the Department of Transportation were to be included in amended legislation as a standard setting agency, would the Board then have appropriate jurisdiction?

ANSWER: If the Department of Transportation were designated as a standard-setting agency under the Architectural Barriers Act (ABA), with authority to issue standards for buildings, facilities and public conveyances (including rolling stock and aircraft), which are designed, constructed, altered or purchased with Federal funds, then the Board would have jurisdiction to enforce these standards. However, it should be noted that the text of the ABA which defines "building" would have to be amended to include public conveyances and mobility-aid equipment used in connection with access to the conveyances. (Currently, the ABA only applies to real property and fixed facilities that are designed, constructed and altered with Federal funds; the ABA does not cover public conveyances or mobility-aid equipment, nor does it cover any acquisition or purchase made by the Federal government.)

Since public conveyances and mobility-aid equipment used by airlines, generally, are not purchased or constructed with Federal funds, the Architectural Barriers Act, whose application is tied to Federal funding, may not be the appropriate vehicle to achieve access in this case.

COMPLETION OF MINIMUM STANDARDS AND GUIDELINES

SENATOR CHILES: Must of your funding and effort over the years has been for research to complete the minimum guidelines and requirements. Do you have a long-range plan and timetable for completing this effort?

ANSWER: The Board's plan calls for Minimum Guidelines and Requirements for Accessible Design (MGRAD) provisions to be considered as research results become available, beginning in May of this year. Findings from the Detectable Tactile Surface Treatments (DTST) project will be considered in May 1986; in September, the Board is expected to consider a Notice of Proposed Rulemaking (NPRM) on DTST; the process on DTST should be completed with issuance of a final rule by February 1987. Following shortly at each stage consideration by the Board's results from the Signage project (e.g., June for consideration of findings, November for NPRM, and April for final rulemaking).

The Board expects to follow a similar schedule for consideration of reserved and other MGRAD provisions as other research projects produce recommendations, beginning in September 1986.

SENATOR CHILES: Are the guidelines and standards continually updated so that we will never see a specific "Completion" Date for this effort?

ANSWER: The Board believes that the Minimum Guidelines and Requirements for Accessible Design (MGRAD) is a "living document" in the sense that it must be subject to regular, periodic review to ensure that its provisions reflect the state-of-the-art in accessibility. This is, in fact, the accepted practice for all standards. The American National Standards Institute, for example, requires each of its standards to be reviewed every five years. While this means that the MGRAD probably never will be finished in toto, the Board anticipates completion of all reserved sections within the next several years.

UNIFORM ACCESSIBILITY STANDARD

SENATOR CHILES: Last year you stated that after lengthy effort, the four standard-prescribing agencies--GSA, the Postal Service, DOD and HUD--had finally established a Uniform Federal Accessibility Standard (UFAS). Are all four agencies fully using the new standards at this time?

ANSWER: The Uniform Federal Accessibility Standards (UFAS) were published on August 7, 1984 [49 Fed. Reg 31528] as a notice. The General Services Administration and the Department of Housing and Urban Development simultaneously published regulations to formally adopt UFAS; the U.S. Postal Service and the Department of Defense adopted it by administrative procedures. Only buildings and facilities subject to the Architectural Barriers Act, which were designed, constructed or altered after August 7, 1984, will be required to conform to UFAS. All four agencies are fully using UFAS from the date of its issuance.

The Board coordinated publication of a more usable reprint of UFAS which was distributed to the Board and standard-setting agencies during the first week of February 1986. The Board expects distribution of the more readable edition to facilitate use.

SENATOR CHILES: What benefits have you seen from adoption of the new UFAS? You also noted that few other Federal agencies keep the kinds of records that would allow information on accessibility of their buildings to be developed quickly and accurately. You stated that the Board is available to provide technical assistance to any Federal agencies interested in UFAS implementation.

ANSWER: The Board expects that the adoption of the Uniform Federal Accessibility Standards (UFAS) will lead to less confusion by designers and builders as to what is required. This is the first time that there has been a single standard applicable to all buildings and facilities subject to the Architectural Barriers Act. Also, UFAS is extremely close to the 1986 version of the access standards to be issued soon by the American National Standards Institute (ANSI). The Board is a member of the ANSI A117.1 Committee and furnished extensive comments to be included in the latest version. This should further reduce confusion in the private sector.

However, since UFAS is only applicable to buildings and facilities designed, constructed or altered after August 7, 1984, it is still too early to tell whether the number of complaints to the Board will be reduced. In addition, not all Federal agencies use UFAS as the design standard for compliance with section 504 of the Rehabilitation Act of 1973, as amended. Therefore, there may still be some confusion over which standard applies to which project and thus, a need for technical assistance.

SENATOR CHILES: Have any agencies requested such assistance? Does the Board attempt to let other agencies know of the UFAS and your ability to help with implementation?

ANSWER: The Board is currently assisting two Federal agencies with their comprehensive, agency-wide accessibility projects and we respond, on a case-by-case basis, to requests for technical expertise from other agencies.

In addition, agencies continue to seek different types of technical assistance to make their buildings more accessible to handicapped persons. In one instance, an agency believes its current accessibility policies and procedures, if properly followed, would ensure that its covered buildings and facilities would be accessible. Agency representatives asked for the Board's assistance in studying and analyzing their procedures and policies and developing recommendations for any areas which need further attention. A report of findings and recommendations has been forwarded to this agency. The Board continues to work with another agency to develop and implement a comprehensive system for ensuring accessibility of its buildings through the use of filed surveys and complaint tracking procedures. Other agencies request that the Board's architect participate in on-site evaluations of their entire building to improve accessibility. Also, Federal agencies are beginning to request the Board's assistance in providing training to their staffs on the Uniform Federal Accessibility Standards.

SENATOR CHILES: How would you assess the efforts of the non-standard-setting agencies in setting accessibility guidelines?

ANSWER: Agencies other than the four standard-setting agencies generally adopt or defer to UFAS, or earlier standards promulgated under the Architectural Barriers Act, for facilities other than those covered by the Act, or they refer to other standards such as one of the versions established by the American National Standards Institute (ANSI). The non-standard-setting agencies, of course, have all addressed accessibility requirements under their regulations implementing section 504 of the Rehabilitation Act of 1973.

QUESTIONS SUBMITTED BY SENATOR WEICKER

SENATOR WEICKER: How many staff members do you currently have and what are their responsibilities?

ANSWER: Currently, the Board employs a total of 27 staff members (21 fulltime and 6 parttime). In addition, the Board has hired four individuals who will report to work in April to fill Board staff vacancies. Descriptions of staff members' duties are as follows:

- Executive Director - Exercises general supervision over all personnel employed by the Board; works closely with the chairperson and all participating Board members in planning and carrying out the functions of the Board; represents the Board in liaison activities with a variety of organizations and groups involved in planning or implementing the Architectural Barriers Act; exercises final authority for ordering and directing compliance investigations on initiating litigation; represents the Board in Federal or state civil actions related to the Architectural Barriers Act.
- Special Assistant to the Chairperson - Acts as principal management advisor and personal representative for Chairperson of the Board. Duties and responsibilities are closely associated with those of the Chairperson.
- Acting Director of Research - Oversees and implements the Board's research and accessibility study projects; the incumbent also serves as Communication Barriers Specialist, providing technical counsel on access to communications for deaf and hearing-impaired individuals.
- Deputy General Counsel - Provides ongoing legal counsel to the Chairperson and members of the Board with respect to national policies relating to accessibility arising under section 502 of the Rehabilitation Act.
- General Attorneys (2) - Process complaints received by the Board. Assist the General Counsel in preparation of formal and informal legal opinions.
- Barriers Compliance Specialist - Provides technical expertise on compliance system activities with other Federal agencies and within the ATBCB.
- Technical Services Officer - Directs the Board's Office of Technical Services in implementing its technical public information programs, and in responding to questions from the public and private sector on regulations issued under Title V of the Rehabilitation Act.
- Senior Compliance Systems Analyst (part-time) - Provides technical assistance to the 70 property-holding Federal agencies on accessibility compliance systems in relation to agencies' policies and programs.
- Barriers Specialists (2) - Provide professional and technical counsel to Board member agencies and other public and private entities in the area of barrier-free design, with a Transportation Barriers Specialist working on public transportation issues and an Architectural Barriers Specialist (to join the staff in April) handling design and construction issues.
- Architect (part-time) - Provides professional and technical consultation on accessible design.
- Public Affairs Specialist - Plans and implements technical information/education efforts among the Board's various constituencies.
- Technical Publication Writer - Researches and answers technical inquiries relating to barrier-free design; researches and prepares technical papers.
- Budget Officer - Coordinates the agency's fiscal and budget functions.
- Special Assistant for External Affairs - Develops and carries out external or public affairs strategies on a nationwide basis among client and constituency groups.

agencies, and the community at large to further the ATBCB's role.

- Program Analysis Officer - Oversees the provision of administrative and management services for the Board, including the identification and analysis of issues which impact upon ATBCB plans and functional operations.
- Administrative Officer - Provides administrative services to the ATBCB and its staff; responsible for intraoffice/Federal and public Board member administrative procedures.
- Support Staff - Includes one executive secretary in the Office of the Executive Director who coordinates various activities in support of the Board and serves as agency timekeeper; one secretary in the Office of Compliance and Enforcement/Office of the General Counsel; two clerk-typists, two clerical assistants (one recently recruited to begin work in April) and one part-time student assistant. Additional support staff include a sign language interpreter who interprets for deaf and hearing-impaired staff and visitors, and three part-time readers, each working one-third of a work week, who provide reading services and visual assistance to blind and visually impaired staff and Board members.

In addition to the Architectural Barriers Specialist and clerical assistant noted above, the following new staff members will begin work at the ATBCB in the next few weeks:

- General Counsel/Director of Compliance and Enforcement - As General Counsel, provides ongoing legal counsel to the Board; as the Director of Compliance and Enforcement, oversees implementation of the Board's compliance procedures and compliance system.
- Legal Editorial and Management Assistant - Provides legislative analyses and editorial and management assistance to the General Counsel and the Office of Compliance and Enforcement on matters pertinent to the Board.

SENATOR WEICKER: How many fulltime architects are on the staff?

ANSWER: The ATBCB has had one parttime architect and will add one fulltime architect as of April 3, 1986.

SENATOR WEICKER. Who attends the Board's meetings at the Federal level?

ANSWER. The Federal Board members and/or their liaison staff attend the Board meetings. The Federal members of the Board are the heads of eleven agencies (or their designees whose positions are executive level IV or higher, as provided in section 502. The Federal members and their designees who attend the Board meetings are as follows:

Agency	Designee
Department of Defense	Assistant Secretary for Force Management and Personnel
Department of Education	Assistant Secretary for Special Education and Rehabilitative Services
Department of Health and Human Services	General Counsel
Department of Housing and Urban Development	Assistant Secretary for Fair Housing and Equal Opportunity

Department of the Interior	Principal Deputy Assistant Secretary for Policy, Budget and Administration
Department of Justice	Assistant Attorney General for Civil Rights
Department of Labor	Solicitor of Labor
Department of Transportation	Assistant Secretary for Policy and International Affairs
General Services Administration	Deputy Administrator
United States Postal Service	Assistant Postmaster General, Real Estate and Building Department
Veterans Administration	Deputy Administrator

In addition, other Federal agency staff attend depending on the subject areas being discussed.

SENATOR WEICKER. Do Board members or staff members make any on-site inspections of buildings for which complaints have been received?

ANSWER. During FY 1985, Board staff made on-site inspections at the following buildings or facilities for which complaints had been received: The Burlington, Vermont International Airport; Champlain College in Burlington, Vermont; Market Street Square in Burlington, Vermont; Northern Arizona University in Flagstaff, Arizona; the National Aquarium in Baltimore, Maryland; nine subway stations in Baltimore, Maryland; the courtyard at the Department of Justice Building in Washington, D.C.; the Federal court building on 3rd Street and Constitution Avenue in Washington, D.C.; and the sidewalk and street alterations in Stamford, New York.

SENATOR WEICKER. What is the status of the Postal Service leasing situation, what is the Board's opinion on whether the Postal Service is required to make accessible those buildings which they have leased and which have not been renovated?

ANSWER. The Ninth Circuit Court of Appeals decided the case of *Rose et al. vs United States Postal Service* (No. 83-5830) on February 16, 1984. In a unanimous decision, the Court of Appeals reversed the District Court's dismissal of the plaintiffs' action to enjoin the United States Postal Service (USPS) from leasing buildings which are inaccessible to the handicapped and to require the Postal Service to make accessible all buildings leased after January 1, 1977. The appellate court interpreted the 1976 amendment to the Architectural Barriers Act of 1968 to prescribe that buildings leased by the Federal Government are subject to the Act's standards at the time they are leased, not simply when they are altered. The United States Postal Service filed a Motion for Reconsideration of the decision en banc, and it was denied on October 31, 1985. The United States Postal Service did not pursue an appeal to the United States Supreme Court. In light of that, the Board has begun to examine the appropriate actions to take regarding leased facilities.

SENATOR WEICKER. Does the Board coordinate with the National Council on the Handicapped or other advisory bodies in addressing its mandate to make recommendations to the President and the Congress regarding the elimination of barriers?

ANSWER. The Board maintains a working relationship with other advisory bodies such as the National Council on the Handicapped, in addition to establishing and maintaining contacts with private sector organizations. In all of its activities, the Board endeavors to obtain comments and participation from a broad spectrum of organizations and individuals.

SENATOR WEICKER. Your most recent Annual Report indicates that in FY 1985, 32% of the cases closed were closed due to voluntary corrective action. What is the average cost of such corrective action? The total cost?

ANSWER. The Board's complaint processing system does not include keeping records of the cost of actions to remove accessibility barriers. Sometimes the Federal agencies involved inform us as to the cost of the corrective action which they are undertaking, but more often they do not. The Board is unable to estimate these costs since the cost of a particular item, for instance a ramp, will differ depending on the configuration of the building, the type of materials used, the length of ramp required, and other factors. The Board closes a case when corrective action has been undertaken or is promised, and is not involved in the actual mechanics of the corrective action. Thus, we do not have the information necessary to estimate the average costs.

SENATOR WEICKER. How long does it take on the average to process a complaint?

ANSWER. In October 1985, Board staff examined all complaints received from October 1, 1984, to June 28, 1985, to determine the average amount of time that it takes to process a complaint. The average time was found to be 191 days.

SENATOR WEICKER. How many of the complaints received have gone to an administrative hearing?

ANSWER. No citations were filed on any of the FY 1985 complaints, although 178 are still open cases and some of these could potentially result in issuing a citation. None of the FY 1983 or FY 1984 complaints have as yet resulted in the issuance of a citation, although 14 FY 1983 complaints and 50 FY 1984 complaints are still active cases and could potentially result in a citation. The last citation issued was In re Compliance: Two New Courthouse Projects Springfield, Massachusetts, and San Jose, California, filed on November 19, 1981, and concluded on March 24, 1982.

SENATOR WEICKER. What policy statements has the Board adopted in the last 5 years?

ANSWER. Two formal policy statements have been adopted by the ATBCB in the last five years:

> Amicus Curiae - statement of the process by which the Board will respond to requests to participate in litigation as amicus curiae.
>
> Voting Accessibility - statement that disabled people are entitled to effective access to voter registration and polling places.

Other formal policy statements adopted in preceding years were on Public Transportation (statement that disabled persons have the right to accessible public transportation) and Federal Parking (statement relating to the provision of accessible parking spaces for physically handicapped individuals in public buildings and facilities).

SENATOR WEICKER. How many amicus curiae briefs or other interventions has the Board been involved with in the past five years? In what areas.

ANSWER. The Board has not participated as an amicus curiae nor an intervenor in any legal proceedings in the past five years.

SENATOR WEICKER. What recommendations have you made and do you now make for changes in Federal legislation pursuant to your mandate?

ANSWER. The Board has never submitted any proposals for changes in its legislative mandate, nor is it planning to this year. From time to time some legislative proposals have been suggested but were never acted upon by the Board. With a view toward possible initiation of action in this area, the topic is to be considered at the next meeting of the Board in May.

SENATOR WEICKER. What technical assistance has the Board provided to the public? To Federal agencies?

ANSWER. Both the public and Federal agencies request technical assistance in many of the same areas. For example, the Board responds to inquiries concerning architectural, transportation, communications, and attitudinal barriers, and provides technical assistance on research findings, results of demonstration projects, and recommendations of technical papers for both audiences.

Examples of technical assistance for Federal agencies include efforts related to developing and evaluating their accessibility programs; improving access to communication-impaired persons; improving transportation access; and using the Uniform Federal Accessibility Standards. One of the more significant projects done for Federal agencies was the recent development of recommendations for accessibility for handicapped children, prepared at the request of the Department of Education.

The Board also serves as a resource center (library, codes and standards file, bibliographies, abstracts, product literature, research reports/updates, link to data bases) for both public inquiries and Federal agency requests.

SENATOR WEICKER. What are the most frequent requests for technical assistance received by your office?

ANSWER. The Board's technical assistance requests vary widely. Most requests are for information about accessibility requirements, about the Board itself and its mission, or about sources of funds for access modifications.

The Board received large numbers of requests for information on how to implement the Office of Revenue Sharing section 504 regulations. Other individuals are seeking information on design standards, design details, or architectural products for resources for adapting inaccessible environments. These latter requests frequently focus in particular on housing, recreation, church accessibility, hotels and motels, and transportation.

In addition, the Board provides major technical assistance efforts, such as the recent development at the request of the Department of Education of recommendations for making elementary schools accessible to handicapped children, as individual requests are made.

SENATOR WEICKER. What actions have you taken to coordinate your activities with the Department of Justice in cases where complaints also represent 504 violations?

ANSWER. At its May 14, 1985, meeting, the Compliance and Enforcement Committee agreed upon and later reported to the Board that the Executive Director, in conjunction with the Department of Justice, would develop a model Memorandum of Understanding (MOU) which would outline the procedures to be followed when complaints alleging inacessibility of a Federal building are filed simultaneously with the Board under section 502 and with another Federal agency under section 504; and the responsibilities of the ATBCB after receiving notification from a Federal agency of the architectural barriers aspects of a section 504 complaint. This model MOU will be sent to all Federal agencies. The ATBCB staff has drafted a model MOU, which is currently being reviewed by the Department of Justice.

SENATOR WEICKER. Do you believe the enforcement functions of the ATBCB could be adequately carried out by either the Department of Justice, the General Services Administration, or any other agency? Why?

ANSWER. One reason Congress believed there was a need for an independent Board to enforce accessibility standards was that the four standard-setting agencies under the Architectural Barriers Act, including the General Services Administration, were not insuring compliance with the standards. The General Services Administration owns, operates, and constructs the largest number of Federal buildings.

With respect to the Department of Justice (DOJ), DOJ presently enforces numerous laws and, therefore, has enforcement capability. However, DOJ may not presently be equipped with the technical expertise needed to ensure compliance with the Architectural Barriers Act standards. In addition, to our knowledge DOJ does not issue citations against other Federal agencies, an enforcement tool that is authorized for the ATBCB.

SUBCOMMITTEE RECESS

Senator BYRD. The subcommittee will stand in recess until next Wednesday, March 26, at which time we will hear from the Interstate Commerce Commission and the Office of the Secretary of Transportation.

[Whereupon, at 11:20 a.m., Wednesday, March 19, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 26.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1987

WEDNESDAY, MARCH 26, 1986

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, D'Amato, and Chiles.

INTERSTATE COMMERCE COMMISSION

STATEMENT OF HEATHER J. GRADISON, CHAIRMAN

ACCOMPANIED BY:
JOHN F. HENNIGAN, JR., CHIEF OF POLICY
EDWARD E. GUTHRIE, MANAGING DIRECTOR
JANE F. MACKALL, DIRECTOR, OFFICE OF PROCEEDINGS
RONALD S. YOUNG, DIRECTOR, BUREAU OF ACCOUNTS
BERNARD GAILLARD, DIRECTOR, OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE

OPENING REMARKS

Senator ANDREWS. The hearing will come to order.

This morning we will be hearing from the Chairman of the Interstate Commerce Commission and the Deputy Secretary of the Department of Transportation.

It is the committee's responsibility and opportunity to not only exercise its normal oversight responsibilities on the budget request for fiscal year 1987, but to review a major transportation regulatory issue, and that specifically is the sunset of the Interstate Commerce Commission.

Particularly disappointing to me has been the Interstate Commerce Commission's interpretation and implementation of the Staggers Rail Act. North Dakota is dependent on its agricultural industry. Efficient transportation of agricultural commodities is essential to the economic viability of my State. North Dakota shippers, however, are rail-captive. Over 73 percent of all rail shipments out of the State are by rail.

Under the grain marketing system, transportation charges are borne by the farmer. When small grain elevators are exploited by high freight charges or abused by discimination in the areas of rates or service, farm families suffer.

I have not been an ardent supporter of the Commission. However, proposals to eliminate the Commission should not be treated lightly. Passiveness in implementing Staggers is not in itself sufficient reason to abolish the Commission. In fact, now may be the time to fire up the Commission to do its job.

We start with the new Chairman. This is Chairman Gradison's first appearance before this subcommittee. We welcome you here and we look forward to your testimony this morning. Let me say that we have a copy of your opening statement, Madam Chairman, and we will be glad to have you summarize it in any way so we can get to the questions.

INTRODUCTION OF ASSOCIATES

Ms. GRADISON. Thank you, Mr. Chairman. I appreciate the opportunity to be with you today.

Before I do summarize those comments, I would like to introduce the folks at the table with me. On my right is John Hennigan, Chief of Policy; and to his right is Bernard Gaillard, Director of the Office of Compliance and Consumer Assistance. On my left is our new Managing Director, Ed Guthrie. To his left is our new Director of Proceedings, Jane Mackall. And to her left is the Director of the Bureau of Accounts, Ron Young.

ADMINISTRATION'S LEGISLATIVE PROPOSAL

The administration has stated its intention to offer legislation to further deregulate interstate surface transportation and sunset the ICC effective October 1, 1986, and that legislation will also propose a transfer of the remaining regulatory functions to the Departments of Transportation and Justice.

We are on record as supporting previously introduced legislation to reduce or eliminate the regulation of nonrail surface transportation, particularly the regulation of motor carriers of property.

Enactment of the administration's motor carrier bill alone would reduce our budget needs by over one-half. We also supported various proposals for reducing regulation of water carriers, brokers, and freight forwarders. However, the Commission has not had a chance to do a detailed analysis of the new deregulation and sunset proposals. We know they are out there; we do not have the formal copies of them and, therefore, we have not participated in a formal review and comment on those.

Nonetheless, I would like to leave no doubt that if these new proposals will produce a more efficient transportation system and eliminate needless regulation, I intend to offer my enthusiastic support for the administration's initiatives.

I have more specifics on dollars and cents of what it would cost if that enactment takes place, which will be submitted for the record.

COMMISSION REORGANIZATION

I would like to also comment on the fact that the Commission has pursued a reorganization plan that we voted on last August. That resulted in the Bureau of Accounts being realigned to combine staffs having similar professional disciplines and technical backgrounds, and that realignment will reduce the headquarters organizations from five sections to three, and that reduces the numbers of managerial and administrative positions as well.

We have a new Office of Public Assistance, and that has recently been created by merging the Office of Special Counsel and the Small Business Assistance Office, two offices that currently provide a special type of assistance to the public.

The synergism resulting from the merging of these two offices will improve upon the already high quality of assistance available to the public. In addition, the Office of Legislation and Governmental Affairs was recently merged with the Office of Public Affairs, and this merger reduced overhead and combined staff performing similar functions. The new office is called the Office of Legislative and Public Affairs.

REDUCED REGULATORY ROLE

The Commission's actions to streamline the Agency and reduce overhead are consistent with its reduced regulatory role and will enable it to continue to carry out regulatory responsibilities under existing legislation more efficiently than in the past.

Whether the Commission continues to operate as an entity carrying out its present responsibilities, or whether the regulatory responsibilities are reduced or transferred to other agencies are matters for you, the Congress, to decide. But in the absence of further regulatory reform legislation, the resource levels reflected in the Commission's proposed current services budget are required to satisfy our current regulatory responsibilities.

PREPARED STATEMENT

With that, I would be happy to answer any questions that you may have, or direct them to the staff that is here to help me do that as well.

Thank you, Mr. Chairman.

Senator ANDREWS. Thank you, Madam Chairman. We have your complete statement and it will be placed in the record.

[The statement follows:]

STATEMENT OF HEATHER J. GRADISON

Fiscal Year 1987 Budget Request

Thank you for inviting me here today to discuss the Interstate Commerce Commission's FY 1987 appropriation request. I would like to highlight some aspects of this request, and then I will be glad to answer your questions.

The Administration has stated its intention to offer legislation to further deregulate interstate surface transportation and sunset the Interstate Commerce Commission by October 1, 1986. The legislation will also propose the transfer of the remaining regulatory functions to the Departments of Transportation and Justice. We are on record as supporting previously introduced legislation to reduce or eliminate the regulation of non-rail surface transportation, particularly the regulation of motor carriers of property. (Enactment of the Administration's motor carrier bill alone would reduce our budget needs by over a half.) We have also supported various proposals for reducing regulation of water carriers, brokers, and freight forwarders. However, the Commission has not yet had the opportunity to do a detailed analysis of the new deregulation and sunset proposals. For that reason, we are refraining from commenting about the specific merits of the proposed legislation. Nonetheless, I wish to leave no doubt that if these new proposals will produce a more efficient transportation system and eliminate needless regulation, I intend to offer my enthusiastic support for the Administration's initiatives.

If sunset legislation is enacted, the Commission will require approximately $12.9 million in FY 1987 to cover the severance costs of those employees whose functions will not transfer to another agency. However, in the event legislation to further deregulate the motor carrier industry or sunset the Commission is not enacted for implementation by October 1, 1986, we have proposed a current services budget to provide for the continuity of existing regulatory functions required under current legislation. The Commission's proposed current services budget totals $48.3 million and provides for a total of 800 staff-years. This is 116 staff-years and $2.1 million less than actually expended in FY 1985. This request also reflects the Commission's changing regulatory role and its continuing efforts to make efficient use of resources.

Some decreases in workload have continued to occur with respect to our motor carrier regulatory functions under existing legislation. Staff time devoted to motor carrier functions is anticipated to decline 15% between FY 1985 and FY 1987.

The Commission continues to implement provisions of the Staggers Rail Act. However, projected workload reductions will permit staff resources devoted to rail activities to be reduced over 11% between FY 1985 and FY 1987.

During periods of retrenchment, administrative support activities do not decline in direct proportion to the reduction in employment levels for the Commission as a whole because the wide range of administrative functions must continue to be performed and because there is increased administrative work associated with carrying out reductions in force and other retrenchment activities. Nonetheless, staff resources devoted to these functions will be reduced 3% between FY 1985 and FY 1987.

Several significant operational changes will be implemented by FY 1987. Extensive changes are being made in the field structure of the Office of Compliance and Consumer Assistance, which has experienced a decrease in work requirements. These include a reduced level of complaints and a decrease in applications for short-term operating authority. The reorganization will also produce more efficient deployment of resources.

The structure of the Bureau of Accounts is being realigned to combine staffs having similar professional disciplines and technical backgrounds. The realignment will reduce the headquarters organization from five sections to three, thus reducing the number of managerial and administrative positions required.

A new Office of Public Assistance has recently been created by the merger of the Office of Special Counsel and the Small Business Assistance Office, two offices that currently provide special types of assistance to the public. The synergism resulting from merger of these two offices will improve upon the already high quality of assistance available to the public.

In addition, the Office of Legislation and Governmental Affairs was recently merged with the Office of Public Affairs. This merger reduced overhead and combined staff performing similar functions. The new office is called the Office of Legislative and Public Affairs.

The Commission's actions to streamline the agency and reduce overhead are consistent with its reduced regulatory role and will enable it to continue to carry out regulatory responsibilities under existing legislation more efficiently than in the past.

Whether the Commission continues to operate as an entity carrying out its present responsibilities, or whether the regulatory responsibilities are reduced, or transferred to other agencies, will be matters for the Congress to decide. But, in the absence of further regulatory reform legislation, the resource levels reflected in the Commission's proposed current services budget are required to satisfy the Commission's current regulatory responsibilities.

I will now be happy to answer any questions you may have.

Directed Rail Service

The only payments made recently from this account were to the Kansas City Terminal Railway Co. for directed service performed over the lines of the Chicago, Rock Island, and Pacific Railway Co. between October 15, 1979, and March 23, 1980.

At the end of FY 1985, the Commission had an unobligated balance of approximately $2,353,000 in directed service funds remaining from the FY 1982 supplemental appropriation of $8 million. Under the Continuing Resolution for FY 1986, P.L. 99-190, $2,300,000 of this amount was transferred to the Commission's Salaries and Expenses account, leaving a balance of $53,000 in the Payments for Directed Rail Service account.

No new directed service is anticipated in FY 1986 or FY 1987, and, as a result, we have not requested an appropriation of additional funds for this account in the Commission's current services budget. However, the Commission expects to decide on a claim for additional compensation from the Kansas City Terminal some time during FY 1986; therefore, funding may be required at a future date to cover this claim.

I would now be happy to answer any questions you may have.

COMMENTS OF VICE CHAIRMAN SIMMONS

I am unequivocally opposed to the Administration's proposal to abolish the ICC and transfer the remaining functions to the Department of Transportation. I believe Congress has been correct in the establishment of Independent Governmental agencies where it has deemed that it was absolutely necessary to obtain independent and objective opinions by Commissioners appointed for a specified term rather than policies dictated to a Cabinet level agency by the administration that happens to occupy the White House. I remain unconvinced that the Department of Transportation personnel can do a better job than the employees currently working at the Commission. In any transfer of functions from the Commission, more than likely some of the Commission's finest and most knowledgeable employees would opt out and go to work for the private transportation industry.

In my twenty-five years in Washington, each time that I have seen transfers of personnel from one agency to another, usually the resulting department has grown three or four times its original intended size. Classic examples have been the creation of DOT, DOE and HHS. Their records of economy have not been exemplary.

STATEMENT OF SENATOR D'AMATO

Senator ANDREWS. I understand Senator D'Amato has an opening statement that he would like to put in the record.

Senator D'AMATO. Mr. Chairman, inasmuch as I have two other committee hearings scheduled at the same time, I would like to be able to submit my statement to the record, as if read in its entirety.

And, Mr. Chairman, with your indulgence, if you could later on, I have one question of particular importance, and I would be pleased if you could pose that question to the Assistant Secretary of Transportation when he testifies.

Senator ANDREWS. Fair enough. I would be glad to do it.

Without objection, the Senator's statement is included, and his question will be made for the record.

[The statement follows:]

STATEMENT OF SENATOR ALFONSE M. D'AMATO

Mr. Chairman, I am pleased to have this opportunity to make a few comments regarding the fiscal year 1987 proposed budgets for the Interstate Commerce Commission [ICC] and the Office of the Secretary of Transportation [OST]. I also would like to extend a warm welcome to today's witnesses, ICC Chairman Heather J. Gradison and Deputy Secretary of Transportation Jim Burnley.

The ICC is charged with the duty of regulating interstate surface transportation. In response to legislative mandates to reduce regulatory efforts in this area, the ICC's staff has been reduced by more than 50 percent since 1981. For fiscal year 1987, a budget authority of $48.3 million has been requested for the ICC; however, legislation is to be submitted to Congress to abolish the agency by the end of fiscal year 1986. This legislation is to include provisions to deregulate interstate motor freight, freight forwarder, and water carriers. Since enactment of the sunset legislation would eliminate most of the ICC's work, any remaining functions would be transferred to DOT and the Department of Justice.

The OST proposed budget for fiscal year 1987 is $64.3 million. Salaries and expenses account for $56.5 million of that total. The remaining $7.8 million is intended to fund residual functions of the ICC which are to be transferred to DOT should Congress approve anticipated legislation to effect the sunset of the ICC. Rail functions and 155 ICC employees are to be transferred to DOT. DOT expects overall full-time equivalent employment to drop from 100,124 in fiscal year 1986 to 97,598 in fiscal year 1987—a decrease of 2.5 percent, or 2,526 full-time equivalent positions. However, OST staff levels are planned to increase from 1,096 in fiscal year 1986 to 1,182 in fiscal year 1987—an increase of 7.8 percent or 86 full-time equivalent positions.

Mr. Chairman, I thank you for this opportunity to offer my remarks. I look forward to hearing from today's witnesses.

STATEMENT OF SENATOR CHILES

Senator ANDREWS. Senator Chiles, do you have an opening statement?

Senator CHILES. I will just put that in the record.

[The statement follows:]

STATEMENT OF SENATOR LAWTON CHILES

I would like to welcome the ICC witnesses to our hearing this morning. I understand that the administration's sunset proposal will require $12.9 million in severance costs and would transfer rail regulatory functions to the Department of Transportation and the Department of Justice. If the ICC is not sunset, a budget of $48.3 million and 800 staff years is requested.

In addition to sunset legislation that will be under discussion this year, several bills are pending on the bill to reregulate the rail industry to further protect captive shippers from unreasonable railroad rates. The committee looks forward to hearing your testimony on these and other matters.

COMMISSION INPUT ON SUNSET PROPOSAL

Senator ANDREWS. Chairman Gradison, have you seen or had input into the administration's proposal to eliminate the Commission?

Ms. GRADISON. I have not had any input at all in the administration's proposal. I did see a draft copy of it last week and the Commission intends to play an active role once that surfaces and is made a formal proposal. We intend to actively participate in those hearings with recommendations and comments with regard to staffing levels and functions that must be continued, as well as those that we feel can be discontinued.

But to this point, we have not.

Senator ANDREWS. Can you support the proposal to eliminate your Agency if you have not seen it or had any role in putting it together?

Ms. GRADISON. Well, the basic guidelines are fairly clear in that the rail functions would remain intact. And of that we are confident and supportive. The Commission is on record as being supportive of motor carrier deregulation and it is our understanding that the proposal also does that.

So yes, sir, the basic framework of it we can support, and with regard to the specifics we do intend to become actively involved when we are given the opportunity.

Senator ANDREWS. Don't you think that as Chairman of the Commission you should have had input into how your Agency is going to be eliminated or how its various functions are going to be transferred to other parts of the Government?

Ms. GRADISON. Well, the proposal surfaced the day I became Chairman and so I do not know to the extent that our former Chairman had a role in developing this proposal. However, it is a question for you, the Congress, and I do think that it is a timely issue to address.

We have had 5 or 6 years to implement the Motor Carrier Deregulation Statute, the Rail Deregulation Statute, the Bus Regulatory Reform Statute, and perhaps it is a reasonable time during budget crunches to have you, the Congress, determine where those dollars and cents can most effectively be spent.

So if the Commission functions can be carried out by other existing agencies and therefore reduce the overhead, it is a reasonable proposition to consider. And where you, the Congress, come out is again, hopefully after a fair amount of effort and a record is built to make that determination.

COMMISSIONERS' VIEWS

Senator ANDREWS. Who, besides yourself, Madam Chairman, supports abolishing the ICC? Are the other Commissioners unanimous in this?

Ms. GRADISON. No, sir; they are not. Though I am here to say that we are in unanimous agreement on any number of issues, this is one on which we differ.

Vice Chairman Simmons has a separate expression which he did submit along with our testimony, in which he takes exception with the abolition of the Agency, specifically because, to paraphrase his words, he is concerned that it might not be as efficient as we already are.

My basis for support is that if it can be more efficient than we are, then I am supportive of it.

SUPPORT FOR ADMINISTRATION PROPOSAL

Senator ANDREWS. Do any of the railroads, trucker, shipper groups, or consumer groups support the proposal?

Ms. GRADISON. I do not know.

Senator ANDREWS. Have you looked into it?

Ms. GRADISON. I have read about their comments but I have not specifically addressed the carriers of motor or rail about it. I have not received any formal comments from those organizations. I have had a number of discussions with shipper representatives and the response so far has been a mixed review.

I know that the American Association of Railroads is on record, from the hearing that we had before the Senate Commerce Committee a few weeks ago, and they were not supportive of it unless the act itself were abolished.

FISCAL YEAR 1987 BUDGET REQUEST

Senator ANDREWS. It is the committee's understanding that the Commission requested $49.654 million from the Office of Management and Budget for fiscal year 1987 and, if not abolished, is now asking Congress for $48.3 million.

Relative to the constraints we all face under Gramm-Rudman-Hollings, why only a 2.7-percent reduction from your original request?

Ms. GRADISON. That is a good question. If you look back over the last 5 years of the Commission's budget, we had a $70 million budget 4 years ago, and we had almost twice the number of employees.

Today we have requested $48.3 million and we will have about 800 employees to match that.

The bottom line is we have cut and we have cut and we have managed to adjust to the requirements of the legislation that we have been required to implement and we are now down to the bone.

Unless we see changes in the statutes that we are required to implement, it would be very difficult for us to carry out our job on fewer dollars. Some of the things that have happened since I became chairman are, No. 1, we looked at the square footage that we occupy within the Interstate Commerce Commission building, and we have reduced it by 20,000 square feet, or we are in the process of doing that.

FUNDS FOR FURNITURE AND EQUIPMENT

Senator ANDREWS. Well, if you are indeed going to reduce the square footage of space, we applaud you for that, but do you think it is wise to spend $70,000 in fiscal year 1986 and $219,000 in fiscal year 1987 for new furniture and equipment when you are going out of business and you are cutting down the size of your operation?

Ms. GRADISON. That is another good point.

Senator ANDREWS. Sure it is a good point. I would not have brought it up if it were not.

Ms. GRADISON. Excuse me. I asked the same question myself when I saw the numbers. The furniture and equipment is really computers, and those computer systems that we are putting into place are for rail monitoring and also for motor carrier insurance monitoring.

We have a fine insurance monitoring system for the motor carrier industry that would transfer over to DOT. It is also my understanding that the demand for that type of equipment within the Government is easily transferable. And my concern is that as long as we are in business, I want to do the best job that we can possibly do, and if our services are out of date, if our systems are antiquated, I feel we have an obligation to go ahead and update what we have and transfer a more efficient system to DOT or to FTC or to the Department of Justice, wherever it goes, so that at least we are not giving them—they do not have to reinvent the wheel.

PURCHASE OF MICROCOMPUTERS

Senator ANDREWS. We appreciate your thoughtfulness, and since the administration wants to sunset you on the first of October, I think it is very generous that you are picking out a quarter of a million dollars' worth of little computers, personal computers, that you say will be very worthwhile to them.

But have you checked with the Department of Transportation to find out whether they really need or want or desire the types of personal computers you are going to buy in this interim?

Ms. GRADISON. Mr. Chairman, I would like to have our Managing Director, Ed Guthrie, back this up and provide additional comments. Is that all right?

Senator ANDREWS. Oh, yes.

Mr. GUTHRIE. Mr. Chairman, the decision to purchase these and to include this in the budget was made, I believe, last summer before I became Managing Director. I am unaware of what communication was with DOT on that.

We can respond to that for the record, however.

[The information follows:]

Until March 27, 1986, the Commission had not contacted anyone at the Department of Transportation [DOT] regarding the proposed purchase of microcomputers. The proposal to purchase these microcomputers was developed and included in the proposed fiscal year 1987 budget long before anyone at the ICC was aware of the administration's intention to propose sunset of the Agency. The proposal was not, therefore, made with the Agency sunset in mind. Rather, it was made under the assumption that the ICC would continue to operate as an independent agency. Further, the Commission's request for funding to purchase the microcomputers is included in the current services request which is proposed for congressional consideration in the event that legislation to sunset the Agency is not enacted by October 1, 1986. There is no provision in the budget for the purchase of these microcomputers in the event that the ICC is abolished.

In developing the proposal to purchase the microcomputers, we considered the probability that, for the foreseeable future, our existing rail functions would continue to be performed. We also considered the possibility that, in the near future, legislation to further deregulate the motor carrier industry would be enacted. Accordingly, the microcomputer purchases planned are associated with the performance of those functions which are expected to continue.

In the event that the ICC is not abolished at the end of fiscal year 1986, but is sunset at some future date, the microcomputers can be transferred to the successor organization and can continue to be used in performance of the functions for which they will be purchased. On March 27, 1986, the Chief, Section of Systems Development, ICC, discussed this purchase with the Deputy Director, Office of Information Systems and Telecommunications Policy of the Department of Transportation. We were given every indication that this equipment would be compatible with the equipment in use at DOT. In any event, the purchase of this equipment will produce long-term savings to the Government.

Senator Andrews. That is fine. You know, it is kind of interesting. It is sort of like the farmer who is going to declare bankruptcy and the day before he goes downtown, buys a new car, a new pickup truck, and a couple of other things, and then declares bankruptcy.

I mean this generosity to the Department of Transportation I am sure is wonderful, but I just—you cannot help but ask the question, are they happy about the particular kind of computers that you are going to pick out for them, that they probably will fall heir to inside of a month or two after you buy them?

Mr. Guthrie. We made this decision, or the Commission made this decision, appreciative of the fact that there is a very real after-market for these computers. They are not something that is going to sit someplace.

If DOT does not want them, there are other agencies of Government that use these as well.

The second part of the response to this, however, is that these are designed also to eliminate cost for timesharing on mainframes. To that extent they are cost-effective.

Ms. Gradison. We are currently using timesharing services.

SAVINGS FROM MICROCOMPUTERS

Senator Andrews. Well, how much is going to be saved? Where do we see that savings in other expenses with the purchase of this quarter of a million dollars' worth of microcomputers? I am sure you can show us what page that is.

Mr. Guthrie. Mr. Chairman, as indicated in the budget, I think we indicate that there will be no savings this coming year, during the transition period due to the use of this equipment.

Senator Andrews. Well, if there is going to be no savings from the use of this equipment and you go out of business at the end of this year, what benefit do we get from the quarter of a million dollars, except for the fact that you are the ones that decided what kind of computers you are going to purchase for some other department of government?

Ms. Gradison. In the long run—first of all, the decision was made prior to our knowledge of the sunset proposal. But we continue to support the proposal because the system that we have developed we think is a good one and we think that it would easily transfer to wherever the services would be performed.

In addition, if we do go ahead and make this acquisition, it would reduce the timeshare expenditures that would be necessary in the event the transfer takes place.

In other words, the reason we looked at it, we said: Can we do a better job with these or can we do a better job without them? Will we save the Government money in the long run or will we cost the Government money in the long run? And our judgment was that we would save the Government money in the long run. We would provide better services for the consumer in the long run, and therefore we made the proposal to ask for the funds to go ahead and pursue this.

Senator ANDREWS. Well, Madam Chairman, unfortunately on the Appropriations Committee, we sort of sit with our green eyeshades and have to look at the figures you give us. And you are asking for a capital account that you say is immediately going to pay dividends because you have got a very short-lived agency. Yet, when we ask you where the dividends are going to be saved, going to be realized, it ain't there.

Ms. GRADISON. It sounds like we could go back and try to give you some actual numbers. I do not think we have done a good enough job of our calculations and we would be happy to provide additional numbers to you for the record.

[The information follows:]

Because of the leadtime associated with procurement, hardware and software installation, and on-the-job training for employees who will use the microcomputers, only about $20,000 savings from the microcomputer purchase is anticipated in fiscal year 1987. However, in fiscal year 1988 and beyond, it is anticipated that the Commission's annual expenditures for computer timesharing services will be reduced by approximately $75,000. Therefore, the initial expenditure on microcomputers will be recovered and significant net savings from reduced timesharing costs realized within 3 years. These savings will be achieved whether or not the ICC is sunset, because the functions for which this equipment is to be used will continue to be performed by those staff members transferring to other agencies.

In addition, there are efficiencies provided by the microcomputers that have become critical to the Commission's ability to reduce staff while maintaining a high level of service. Such increase in productivity cannot be achieved without an investment in labor-saving equipment.

ANALYSIS OF CURE LEGISLATION

Senator ANDREWS. The point is, when we asked where the savings were, we were told there are not going to be any savings in this year. This is the only year you are in operation. After that point in time, you are going to give the computers to somebody else.

But let's get to another subject.

Madam Chairman, in front of the House Committee on Energy and Commerce, on February 6, you stated that a detailed analysis of the Consumers United for Rail Equity [CURE] legislation, prepared by your staff would be available in 2 to 3 weeks.

What is the status of that analysis?

Ms. GRADISON. We did submit a detailed analysis of the CURE legislation. We also provided detailed comments on that legislation to the Senate Commerce Committee February 21.

Senator ANDREWS. Can you provide this committee with the results of that analysis?

Ms. GRADISON. Yes, sir.

[The information follows:]

[CLERK'S NOTE.—Due to the size of the document, it will be retained in the subcommittee files.]

IMPACT OF CURE LEGISLATION ON BUDGET

Senator ANDREWS. At the same hearing and without benefit of the detailed analysis which you said was still out there someplace, you stated that the CURE legislation would cause a 20-percent increase in your budget, a 12.5-percent increase in staff, or 100 people, and $10 million in cost.

How were you able to come up with that estimate?

Ms. Gradison. Let me turn that over to Jane Mackall, Director of Proceedings, because she is the person who provided that estimate.

Ms. Mackall. I did it, sir, and it was for the most part a guesstimate. I am the Director of the Office of Proceedings, and therefore am in charge of processing most of the cases.

I went through the bill section by section, determined whether rulemakings would be required, approximated how many staff years it would take, how many adjudications might result, approximated them, and then received from the Budget Office general figures, used governmentwide, to estimate attorney costs and administrative and overhead costs. But it was basically a guesstimate.

Senator Andrews. Could you provide additional details on what offices would necessarily have to increase their staff and why on that?

Ms. Mackall. Yes, sir.

[The information follows:]

The figures mentioned were a quickly drawn "guesstimate" of the impact of the CURE legislation. After further consultation with the offices that would be affected, we believe there would be an initial and then a lessened, recurring impact upon the Commission's workload and budget. The estimated staff-years and funds for each of the offices follows:

[Dollars in thousands]

Office	Initial		Recurring	
	Staff years	Funds	Staff years	Funds
Proceedings	75	$4,809	45	$2,885
Accounts	29	$1,815	20	$1,252
Secretary	9	$368	9	$368
Compliance and consumer assistance	5	$291	3	$174
Totals	118	$7,283	77	$4,679

Most heavily affected by the legislation in terms of staff resources will be the Office of Proceedings. Staff will be needed for both rulemaking and adjudication: rulemakings initially to develop the framework for implementing the legislation, and the adjudications to develop the records within that framework to enable the Commission to decide specific cases. There will be a surge of activity following the adoption of legislation, but after guidelines are established, a recurring pattern of adjudications will evolve.

The Bureau of Accounts will require additional staff because the rate reasonableness section of the legislation would disallow stand alone cost as the basis for establishing maximum rates, thus requiring a rulemaking proceeding to develop another method. The revenue adequacy section of the proposal requires the annual revenue adequacy determination to determine the avoidable deficit for each carrier annually and the development of cost of capital for each carrier annually. Both are new aspects to the revenue adequacy findings and will necessitate increased resources.

The Office of the Secretary will require increased support positions in the microfilm, printing, fees, and clearance units because of the greater workload generated by the increased filings, documents, and decisions associated with the cases.

The Office of Compliance and Consumer Assistance would participate initially in rulemaking activity associated with implementing the legislation. On a continuing basis, the office would assist in the development of a record in rail abandonment cases, especially where there is evidence of an effort to downgrade a line through a strategy of deferred maintenance, while simultaneously deemphasizing the solicitation of traffic in advance of filing the abandonment application.

REVENUE ADEQUACY

Senator ANDREWS. Madam Chairman, it is our understanding that in appearances before other committees, you have admitted that there are real problems with the revenue adequacy. Railroads, by everyone's estimation, are doing better now; yet the Commission's assessments do not reflect this trend. Why?

Ms. GRADISON. That is what we are trying to find out and I have circulated to the Commission on Monday, an options paper dealing with our rate reasonableness, revenue adequacy considerations.

We are concerned about it and so we are putting the pieces together to take a look at it and see if we can make some adjustments in our revenue adequacy considerations that would have an effect on the results.

Senator ANDREWS. Well, we understand you are reviewing these revenue adequacy standards. When is that review going to be completed?

Ms. GRADISON. Well, I circulated the first options paper, as I said, on Monday, and I would be happy to provide you with—we are working on it; I would be happy to provide for the record the specifics when we get it done.

Senator ANDREWS. When do you think it is going to be completed?

Ms. GRADISON. It is my understanding that it will go out and be completed about late summer or early September.

Senator ANDREWS. Then you can provide this committee a copy of that when it is completed.

Ms. GRADISON. Absolutely.

FUEL PRICES AND RAIL RATES

Senator ANDREWS. During periods of fuel price increases, railroads were allowed to charge shippers surcharges to quickly recover rising fuel costs.

Has the Commission considered lowering rates or providing a fuel-rebate in this period of rapidly declining fuel prices?

Ms. GRADISON. We are looking at it right now. I was delighted to read on this morning's front page of the Washington Post, of a drop in actual Consumer Price Index. I think this is something that none of us anticipated in 1980 when the Staggers Act was written, and we are now taking a look at our procedures to see how or whether we can go ahead and reflect that drop in the Consumer Price Index in those rates.

Senator ANDREWS. Well, it is not the drop in the Consumer Price Index, Madam Chairman. The Consumer Price Index will go down only if the ICC gets off its duff and realizes that when you regulated rates up because fuel went up, you have got to regulate them down because fuel goes down.

Ms. GRADISON. Yes, sir.

Senator ANDREWS. Diesel fuel today is selling for half as much as it was 3 or 4 years ago; is that not true?

Ms. GRADISON. Yes, sir.

Senator ANDREWS. Now, how are we going to impact consumer prices if we do not reflect the reduction in energy costs to rail rate?

Ms. GRADISON. We are looking at that issue at this very time and the Commission just yesterday addressed that issue with regard to motor carriers.

Senator ANDREWS. When do you anticipate you will have that type of a regulation out?

Ms. GRADISON. Again, I cannot give you a specific time. I would be happy to provide it for the record.

[The information follows:]

The provisions of 49 U.S.C. 10707a on their face refer only to increases in rates, not reductions. Therefore, the first issue before the Commission is whether it has the legal authority to order a rate level decrease. If it does, then the second issue is what action, given the factual complexities of this matter, the Commission should take. The Commission's General Counsel and Bureau of Accounts have advised the Commission on those questions. Recognizing the urgency of this matter, the Commission will act upon it before the end of April.

GOVERNMENT IN THE SUNSHINE

Senator ANDREWS. Senator Chiles.

Senator CHILES. Thank you, Mr. Chairman.

As you recall, the ICC adopted a rule in May 1984 to require all significant ICC cases to be discussed and voted on in public.

Last year I note that only 9 cases were voted on in the public out of a total of 1,916 cases. Since last year's hearing, another 1,283 cases have been decided, but only 12 of those were voted on in public.

Madam Chairman, are you satisfied that all significant cases are being decided in the public?

Ms. GRADISON. My numbers are different from yours, Senator, which I would be happy to submit for the record. I believe that a year ago, I testified before you with regard to Interstate Commerce Commission sunshine hearings and compared some of our votes to the equivalent of quorum calls here in this body.

I am satisfied that as Chairman, I am going to call hearings on all major or all significant rail and motor matters that come before the Commission. I am encouraged by the number of sunshine hearings that the Commission had last year.

In summary, we heard your concerns and we have attempted to respond. The numbers are not as reflective as our actions because the cases that come through the pipeline are the result of years of work, and so, therefore, we do not have a pro forma type sunshine hearing where we vote on the noncontroversial matters.

SIGNIFICANT CASES

Senator **CHILES**. If you say your numbers are different from mine, I wish you would give those to me. I am looking at the submissions that you all have made to us, showing the numbers where there is oral argument. And that is where I counted the 12 cases. And also from the rail cases of 495 and motor cases of 788, that is where I came up with the 1,283 cases.

Ms. **GRADISON**. That is correct. The 1,283 is correct. The 495 rail cases are correct and the 788 motor cases are correct.

But we have had 15 conferences on 23 different matters, and I believe you said 12. I would be happy to provide any corrections for the record, sir.

[The information follows:]

OPEN CONFERENCES

In the past year, the Commission has held 15 open conferences on 23 different matters of significant importance as illustrated by the following listing. During this period, the Commission has voted on 1,283 matters, 495 rail cases and 788 motor cases, many of which were routine rail abandonments, rail exemption requests, motor carrier applications for permanent authority, transfers of permanent motor carrier authority, motor carrier exemption requests, and other such matters. Since becoming Chairman, I have convened two open conferences on four different matters of significant importance and plan to convene one or two conferences each month during which a number of significant pending matters may be considered.

DATE	TIME	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
4/16/85	10:00 a.m.		Open	F.D. No. 30500	Norfolk Southern Corporation - Control - North American Van Lines, Inc.
5/21/85	10:00 a.m.		Open	Ex Parte No. 297 (Sub-No.7)	Motor Carrier Rate Bureaus - Expansion of Collective Ratemaking Territory
6/18/85	9:30 a.m.		Open		Reorganization - FY 1987
6/20/85	9:30 a.m.		Open	Ex Parte No. 347 (Sub-No.1)	Coal Rate Guidelines - Nationwide
7/18/85	10:00 a.m.	X		Ex Parte No. 445 (Sub-No.1)	Intramodal Rail Competition
	2:00 p.m.	X		Ex Parte No. 320 (Sub-No.3)	Product and Geographic Competition
7/30/85	10:00 a.m.		Open		FY 1987 Budget Conference
7/31/85	10:00 a.m.		Open	Ex Parte No. 320 (Sub-No.3)	Product and Geographic Competition
9/11/85	10:00 a.m.		Open	Ex Parte No. 445 (Sub-No.1)	Intramodal Rail Competition

DATE	TIME	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
10/9/85	9:30 a.m.		Open	Ex Parte No. MC-175	International Joint Through Rates Involving Ocean Carriers-- Revision of Tariff Filing
				Ex Parte No. 387	Rail Transportation Contracts
10/16/85	1:30 p.m.		Open	Ex Parte No. 387 (Sub-No.958)	Exemption from Regulation - Shipments Subsequently Made Subject to a Contract Rate
				Ex Parte No. 397	Notice of Proposed Exemption of Certain Railroad Securities from Regulation
				Ex Parte No. 274 (Sub-No.13)	Rail Abandonments - Use of Rights-of-Way as Trails
10/22/85	3:00 p.m.		Open	Ex Parte No. 334 (Sub-No.7)	Car Service Compensation
11/6/85	9:30 a.m.		Open	Ex Parte No. 392 (Sub-No.1)	Class Exemption for the Acquisition and Operation of Rail Lines Under 49 U.S.C. 10901

DATE	TIME	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
12/11/85	9:30 a.m. and 2:00 p.m.		Open	Ex Parte No. 346 (Sub-No.8)	Exemption from Regulation - Boxcar Traffic
				F.D. No. 30663	Chicago, Central and Pacific Railroad Company— Purchase (Portion), Trackage Rights, and Securities Exemption
				F.D. No. 30700, et al.	Chicago and North Western Transportation Company--Construction and Operation--In Cambell County, WY
3/12/85	10:00 a.m.		Open	Ex Parte No. MC-170 (Sub-No.1)	Short Notice Effectiveness For Independently Filed Single-Factor Motor-Water Rates
				Ex Parte No. MC-176	Short Notice Effectiveness for Independently Filed Motor Passenger Carrier Rates
3/20/86	2:00 p.m.		Open	Docket No. 36180	San Antonio, Texas Acting by and Through Its City Public Service Board
				F.D. No. 30186	Tongue River Railroad Company--Rail Construction and Operation--In Custer, Powder River, and Rosebud Counties, MT

SUPPORT OF SUNSET PROPOSAL

Senator CHILES. I do not know. Maybe that is the difference. But it would seem to me that if the numbers are anywhere near this magnitude, if they are 12 or 15, or whatever the number is, that if there are only that many important cases that does seem to support the administration's proposal for sunset if all the other things you are doing are just simply very routine matters.

Ms. GRADISON. Yes, sir.

COSTS OF RAIL REGULATION ACTIVITIES

Senator CHILES. As you know, Madam Chairman, the administration proposes to abolish the ICC and transfer the rail regulatory activities to the Department of Justice or the Department of Transportation.

A total of $11.2 million is proposed for the transfer which compares to approximately $20.7 million the ICC now spends on this activity. Can you tell me how the rail regulatory activities can be carried out by the Departments of Transportation and Justice for almost half of what the ICC is now spending on them?

In other words, if ICC was not sunset, can we cut your rail budget in half?

Ms. GRADISON. I am concerned about those numbers. I do not think that—because I do not know the specifics of the items that would transfer, I have not played a role in the numbers that they have proposed for staffing. It is my understanding from listening to Matt Scocozza of DOT testify before I did on the House side, that when they transferred the CAB functions, CAB had a number and DOT also had a number and then when the legislation came through they worked it out as to how many people they needed.

We need all the people that we have on our rail functions to provide what the statute requires today, and if there were no change in that statutory requirement, it is my understanding that they would probably need more people to do the job than are recommended here.

But I do not know what kind of overhead they are talking about either.

CAPTIVE SHIPPERS

Senator CHILES. I have heard from the phosphate industry in Florida regarding the captive shipper issue, the reasonableness of rates charged by railroads. Under the existing legislation, the Staggers Act, a process exists for the ICC to determine the reasonableness of rates and to adjust them if they are unreasonable.

There are 35 cases that are now pending at the ICC and a great deal of frustration exists because of the slowness of the ICC to act. Two pieces of legislation are pending to address this issue. S. 447, to involve the courts in ratesetting, and S. 477, to amend the Staggers Act and substantially reregulate the rail industry.

When is the ICC going to start moving more quickly on these rate cases and is it going to be necessary to pass legislation in order to get these cases resolved more quickly?

Ms. GRADISON. We are moving on them right now. They are a top priority since I have become Chairman. We are working on the market dominance aspects of each one of those cases at this time.

No, sir; I do not think it is necessary to pass either one of those pieces of legislation. In fact, I am concerned that if they did pass, it would take even longer to resolve those cases because of having to go back and have rulemakings and change the manner in which the decisions are made.

Let me summarize by saying the Commission has worked long and hard to come up with standards and guidelines by which to decide these cases. We now have the tools in place for the coal area and we are moving forward for other commodity areas.

We are also concerned about small shippers and we should be coming out with a Notice of Proposed Rulemaking for how a small shipper, an agriculture shipper, or a one-time shipper, user of rail transportation, can make a rate reasonableness case before the Commission.

These are our top concerns and we intend to address them as quickly as possible.

Senator CHILES. Then you are saying the ICC is now actively seeking to identify captive shippers and to protect them?

Ms. GRADISON. That is correct. From the cases that are before us, that is correct. Within the cases that are before us, yes, sir.

Senator CHILES. Well, in towns with more than one railroad and no reciprocal switching, is it the ICC policy to require a reciprocal switching and a joint use of terminal facilities?

Ms. GRADISON. Well, we review those on an individual case-by-case basis. It looks like we have had about a dozen of that type of case before us. We have decided six to provide for access and it looks like two were denied on the merits.

Senator CHILES. If the ICC is abolished, how would captive shippers, intrastate captive shippers be protected?

Ms. GRADISON. The law would remain intact is my understanding. So it would be the same way except it would be administered by DOT rather than ICC.

Senator CHILES. But the budget would be cut in half at the Department of Transportation.

Ms. GRADISON. Well, the Department of Transportation has many of the overhead functions that the ICC has already in place, and as I said earlier, in the event this transfer takes place I intend to play an active role, along with the rest of the Commission, in making certain that whoever takes over our functions recognizes the appropriate numbers of people and dollars necessary and required to carry out these functions.

I have no intention of suggesting that these functions should be carried out in any other manner than the best way to meet the consumers' needs and concerns.

Senator CHILES. I have some other questions, but I think I can submit those for the record.

AGRICULTURAL CONTRACTS

Senator ANDREWS. Thank you, Senator.

Madam Chairman, just a couple of more questions and I will submit the rest of mine.

What is the status of the National Grain and Feed Association and the American Association of Railroads agreement on agricultural contracts' confidentiality?

Ms. GRADISON. It is before the Commission right now and we are voting on it. We should have a result to the public within the next 2 weeks.

TRUCKING INDUSTRY DATA COLLECTION

Senator ANDREWS. Based on the importance to the trucking industry of the data collection functions performed by your Agency, can you tell the committee what is going to happen to this should your Agency be sunset?

Ms. GRADISON. Well, it is currently on hold and therefore I do not know.

Senator ANDREWS. What do you mean they are currently on hold?

Ms. GRADISON. If the motor carrier functions were sunset, then the data collection would no longer be continued anywhere.

Senator ANDREWS. No; but here again we get to the intial questions I asked you about, were you included in the loop in figuring out how your Agency is going out of business? You said no. You say you favor its going out of business.

Yet, here on something as basic and necessary as the data collection function performed by your Agency, you do not know what is going to happen to it.

Ms. GRADISON. No, sir; I do not.

Senator ANDREWS. Shouldn't you, in your responsibilty as Chairman, take some active leadership role in making sure that these key functions do indeed and in fact get transferred someplace so they will be carried out?

Ms. GRADISON. Yes, sir.

Senator ANDREWS. Where are you going to send these computers you are going to buy? I would think they are going to go someplace where they are going to be used for performing some of these services that they are being purchased for.

Ms. GRADISON. Yes, sir; I agree that I should play a leadership role in determining the fate of our Agency and, given the opportunity to review the statute, I intend to play that role.

With regard to the computers, they are being purchased predominantly for the rail functions. However, in the motor carrier area we currently are charged with insurance and fitness. And as I said, we have a fine insurance review process, but we are only responsible for about 30,000 motor carriers out of 220,000 motor carriers that are on the roads.

So perhaps if our function were to be transferred, the recipient of those responsibilities would be able to use the system that we have for all motor carriers, not just the regulated carriers for which we are responsible.

Senator ANDREWS. But don't you feel that the data collection functions that you have been performing all these years are important and should be continued?

Ms. GRADISON. No, sir.

Senator ANDREWS. You don't feel that having this information assembled protects the little guy on the block?

Ms. GRADISON. I am sorry, I did not hear you.

Senator ANDREWS. Do you not feel that having this kind of information assembled and available protects the little guy on the block?

Ms. GRADISON. My counsel tells me this is before me. However, for the record, in the event that it can be done in the private sector rather than by the Government, I would support it being carried out by the private sector.

TRUCKING INSURANCE CRISIS

Senator ANDREWS. Well, the data collection, whether it is here or in the Department of Agriculture or in other agencies of Government, I have been led to believe and I feel fairly strongly about, protects across the board.

If you did not have that information in the field of agriculture, for instance, the only people that have it would be the Cargills and the other big shots, and the little guy who is trying to make a production decision would not have access to these kinds of forecasts and data assemblies and all of the rest.

Now, here you have been doing this to protect the individual who wants to look into the feasibility of a trucking operation. You say it is not important and can be done away with.

On that basis, maybe more and more of that Agency might just as well disappear. As you know and you mentioned a minute ago, the pending insurance crisis is impacting the trucking industry as well as many other businesses. In an effort to address possible solutions, May Trucking petitioned your Agency for self-insurance. You asked for more data. May Trucking has repetitioned this time with all the requested information.

Can you tell us when you expect to arrive at a decision on that petition, what the current status of it is?

Ms. GRADISON. It is currently before the Commission. I circulated an insurance package to the members of the Commission last week. We circulated a package dealing with four different issues regarding insurance and motor carriers. It is under review in their offices, and I expect to have a result on that again in the next 2 weeks.

Now, you might say well, what are all these next 2 weeks? I have been Chairman of the Agency since the middle of December. We are attempting to gain hold of the docket within the Agency to move the rate cases out of the building, to deal with the motor carrier concerns that are before us, to deal with the rate reasonableness questions for railroads, to deal with the market dominance issues.

And in addition to that, I have now had the honor of testifying before Congress seven times in the last 10 weeks.

We are moving ahead. Whether we continue to exist or not is up to you, the Congress, but I would like to provide you with the assurance that as long as we are in business, we are going to continue to try to streamline our operation, make recommendations to you for legislation where we think it is needed, and to do the best job that we can do with the funding that you give us.

That is a firm commitment and I believe it.

COMMISSION ACTION ON INSURANCE

Senator ANDREWS. Well, Madam Chairman, let us point out, you have been on this Commission for about 3 years. You are only recently the Chairman, but this is not something new to you or the other commissioners. Some of this work I would hope had been done before the last 3 or 4 months.

The reason I was asking about the May Trucking Co.'s petition—and I am gratified to know that you say it is going to be finished in 2 weeks—but the question really is will the Commission be coming out with a decision on self-insurance that affects the whole industry, or are you going to continue to handle this situation on a case-by-case basis?

Ms. GRADISON. No; this will affect the entire industry. We will deal with them on a case-by-case basis, but this sets up the guidelines.

Senator ANDREWS. OK. Now, is a rulemaking in this area necessary?

Ms. GRADISON. I do not know, but I will answer for the record.

Senator ANDREWS. Well, you do not know whether it is or is not.

Ms. GRADISON. I think John Hennigan, Chief of Policy——

Senator ANDREWS. He looks like he has got an answer on the tip of his tongue.

Mr. HENNIGAN. Senator, we do have rules for motor carrier self-insurance and we are, in the context of this insurance package, looking at those rules for self-insurance to see if they need to be updated. That is part of the package that the Commission is currently——

Senator ANDREWS. When will you have your decision made on this as to the finalizing of the update of this rule, if that is the way to go?

Mr. HENNIGAN. These are all part of the same package. The May Trucking case is the lead component.

Senator ANDREWS. So that when the May Trucking case emerges in 2 weeks, you will have included in that package a rulemaking or a rule-updating procedure that will apply to all of this type of procedure?

Mr. HENNIGAN. Senator, if the Commission votes to approve the draft decisions, that would be correct.

OCCA REORGANIZATION

Senator ANDREWS. OK.

Finally, major reorganization of the OCCA field and regional structure is being conducted. What field and/or regional offices were either closed or lost personnel in fiscal year 1985, occurred or were planned in fiscal year 1986, and are planned for fiscal year 1987?

Can you provide that list for the record?

Ms. GRADISON. Yes, sir.

[The information follows:]

There were no ICC field offices closed in fiscal year 1985. Thirty-three offices will be closed under the fiscal year 1986 reorganization. Ten of the offices have no employees currently, and actions are now underway to close those offices by May 1, 1986. The other 23 offices will be closed August 1, 1986.

Because the staff-year level authorized for OCCA in fiscal year 1985 was lower than the fiscal year 1984 allocation, two personnel reduction actions were taken in fiscal year 1985. The first occurred in October 1984 and involved the conversion of 11 full-time permanent clerical positions to permanent part-time positions. Three employees (at Springfield, MA, Indianapolis, IN, and Phoenix, AZ) declined part-time positions and were involuntarily separated; two positions (at Miami, FL, and Jackson, MS) were abolished and the employees separated. The second reduction occurred in January 1985. On that occasion, while 32 employees were in danger of losing their jobs, only 14 were separated involuntarily because of voluntary retirements, resignations, and transfers. The locations of the involuntary separations were shown in the following table:

Office	*Number separated*
Washington, DC	2
Wheeling, WV	1
Ft. Worth, TX	2
New York, NY	1
Newark, NJ	1
Chicago, IL	3
Atlanta, GA	2
Los Angeles, CA	1
San Francisco, CA	1
Total	14

Although there could be as many as 50 involuntary separations resulting from the proposed reorganization, we expect this number to be less. A number of vacancies will be available at the offices to be retained, and the Commission intends to offer those positions to staff members currently located at offices to be closed. In addition, OCCA is expected to experience a rather high attrition rate over the next several months. As a result the number of employees who will be involuntarily separated is expected to be approximately 25.

Following the reduction in force scheduled to occur on August 1, 1986, we will provide the Committee with the number of staff members involuntarily separated, by location. The offices scheduled to be closed are as follows:

OFFICES TO BE CLOSED BY MAY 1, 1986

Richmond, VA
Springfield, MA
Miami, FL
Louisville, KY
Jackson, MS
Billings, MT
Portland, OR
Carson City, NV
Des Moines, IA

OFFICES TO BE CLOSED BY AUGUST 1, 1986

Hartford, CT
Portland, ME
Concord, NH
Newark, NJ
Bufflao, NY
Providence, RI
Pittsburgh, PA
Wheeling, WV
Birmingham, AL
Columbia, SC
Memphis, TN
Nashville, TN
Fargo, ND
Pierre, SD
Lansing, MI
Milwaukee, WI
Little Rock, AR
Oklahoma City, OK
Houston, TX
Albuquerque, NM
Anchorage, AK
Boise, ID
Casper, WY

REORGANIZATION STUDY

Senator **Andrews**. And did you do a cost-effectiveness study as to the impact of shutting these field offices and concentrating more and more of your resources in the Washington office?

Ms. **Gradison**. The Commission undertook a complete reorganization conference last summer. Within that, the proposals were provided by each bureau and office head of how they could more efficiently function with fewer dollars.

We have the reorganization study. I would be happy to submit it for the record, and within that it does cover costs.

Senator **Andrews**. Why don't you submit that study to the committee and we will take a look at it?

Ms. **Gradison**. Yes, sir.

[The information follows:]

[Clerk's note.—Due to the size of the document, it will be retained in the subcommittee files.]

SUBMITTED QUESTIONS

Senator **Andrews**. I have some additional questions for the record and I am sure other Senators might as well.

Senator **Chiles**. Mr. Chairman, I think Senator Byrd is going to ask some questions for the record. I think he is concerned about closing of field offices, so I would like to be able to have him submit questions.

Senator **Andrews**. And Senator D'Amato has some for the record as well. We want to find out what your justification is for the closing of the several field offices, and as long as you have got that justification, fine. We will get it when we prepare the questions.

Thank you very much.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

ADMINISTRATION'S PROPOSAL

SENATOR ANDREWS: Chairman Gradison, it has been reported that you support the Administration's proposal to eliminate the Commission? Is that true?

ANSWER: Yes, I support the President's proposal to sunset the Interstate Commerce Commission. There are a number of reasons for this which can best be illustrated by looking at separate segments of the surface transportation industry for which we are responsible.

On one hand we have a group of transportation providers and services which are already either substantially deregulated by law or the ICC has had only limited jurisdiction. This group includes motor carriers of property, motor carriers of passengers (buses), freight forwarders, brokers, pipeline and water carriers. In my view, economic regulation for these industries should be ended. Then, we need only provide continued protection of the public interest by ensuring that operations are safe and that carriers (and derivatively the public) are covered by an appropriate level of insurance. Safety and insurance responsibilities are currently split between the United States Department of Transportation and the ICC. These functions could be combined and carried out by one agency. Because of the associated manpower, record-keeping and logistical needs, I believe this task can be carried out most effectively by the DOT.

On the other hand, the transportation services provided by freight hauling railroads and by household goods moving companies appear to require some oversight beyond safety and insurance--primarily to protect household goods moving customers, who are generally less sophisticated as shippers than their business counterparts who ship and receive freight, and to protect those rail shippers who have no competitive alternative to service by a railroad or a particular group of railroads. These tasks must be continued but I have long felt that these tasks do not necessarily have to be done within any particular building and agency.

I think the question of where and how the necessary consumer and captive shipper protection is carried out should focus on three goals: (1) protection of the public where needed, that is, where the forces of competition do not exist to permit the dynamics of supply and demand to control the price and quality of transportation services; (2) continued deemphasis of regulation by non-market forces where such regulation is not needed; and (3) a fair return to American taxpayers by providing whatever governmental involvement is needed in an effective and efficient manner.

I will offer no predictions on how this will be resolved. In the meantime, we will continue to do the job assigned to us for as long as that remains the case. The transportation legislation which has been passed by Congress in the past several years is being implemented by the Commission. Just as shippers and carriers have had to make adjustments to changes effected by the new laws, so has the ICC had to adjust. I think we have done a pretty good job under the circumstances. We have lost numerous employees. We have had smaller budgets. We have had to become more efficient to meet the increased number of deadlines imposed on us by statute. These are not excuses. We all have had to do more with less, but I think there is still room at the Commission to do a better job with our resources.

There is a lot of work to be done. We are happy to do it and are determined to do it well. We will do the job through September of this year and stand ready to continue afterward if that is what the Congress and the President decide.

SENATOR ANDREWS: How would you suggest the Commission be dismantled? That is, what offices and functions could be terminated and what functions should be retained?

ANSWER: I support the proposed legislation to end regulation of motor carriers, interstate water carriers and surface freight forwarders. I also support in principal transfer of the remaining functions to agencies that can best accomplish the task. Therefore, at this time, I do not have alternative proposals for disposition of the Commission.

SENATOR ANDREWS: As Chairman, do you believe that there are some functions or purposes now performed by the Commission that should be performed by an independent commission or agency?

ANSWER: I believe the Administration's proposal best addresses this issue.

SENATOR ANDREWS: If so, what types of activities would best be carried out by an independent body?

ANSWER: I believe this issue is best addressed by the Administration's proposal.

SENATOR ANDREWS: What functions should or could be transferred to existing independent agencies like the Federal Trade Commission (FTC), or Federal Maritime Commission (FMC)?

ANSWER: I believe the Administration's proposal best addresses this issue. I would note that none of the remaining residual functions would naturally complement the current regulatory scheme at the Federal Maritime Commission.

SENATOR ANDREWS: Do you or the Commission support the creation of a super regulatory body that combines the ICC, FMC and possibly other regulatory bodies?

ANSWER: No, I do not. In a time of budget austerity, it seems excessive to create new agencies.

SENATOR ANDREWS: What other regulatory bodies might be part of this new regulatory body?

ANSWER: I do not support the proposal of a super agency.

SENATOR ANDREWS: The Administration's proposal to abolish the Interstate Commerce Commission is predicated on complete deregulation of trucking, surface freight forwarders and interstate water carrier industries. What functions should or could be transferred to existing Federal entities like the Department of Transportation or Department of Justice? Please elaborate.

ANSWER: Assuming enactment of the proposed deregulation of trucking, surface freight forwarders and interstate water carriers, regulation would still be required for motor carrier safety and insurance, bus preemption of states, provisions of current law dealing with motor carriage by foreign carriers and railroad regulation. These are residual functions that could be handled by other Government agencies.

SENATOR ANDREWS: What resources would necessarily be transferred for these Departments to carry out these functions? How many people and dollars would each Department require?

ANSWER: I am not in a position to determine specifically what resource levels other agencies may require to accomplish the remaining regulatory functions. Such estimates are best made by the heads of those agencies who are most familiar with their operations and with potential economies available within the organizations.

The resource requirements contained in the Commission's FY 1987 current services request are appropriate for our organization to perform current functions. These requirements include 292 staff-years and $18.7 million to perform existing rail functions. There are also resources associated with the residual motor functions and administrative support.

While some "economies of scale" may be available when functions are transferred to larger agencies, it is unlikely that such economies could result in significantly lower resource requirements.

BUDGET - OVERALL

SENATOR ANDREWS: The FY 1987 request of $48.3 million is approximately two-tenths of one percent less than the FY 1986 post-Gramm-Rudman-Hollings level of $48.4 million. Do you expect the Committee to believe that the Commission cannot find even one percent of savings in the way it does business? If not. Why not?

ANSWER: First of all, although the reduction between the FY 1986 spending estimates and the FY 1987 budget request appears small, the FY 1986 estimates already reflect a reduction of over 4.5% from the funding levels available under the 1986 Continuing Resolution, prior to sequestration under Gramm-Rudman-Hollings. Therefore, this year we have already generated significant savings.

In addition, a number of factors distort the comparison between the two fiscal years. First, the FY 1987 level incorporates one-time costs associated with the field reorganization and with the purchase of microcomputers, which in both cases reduce the FY 1987 net savings. Second, increases in personnel compensation costs will occur as a result of normal within-grade step increases and performance-based salary increases and awards required under the Performance Management and Recognition System. Finally, in FY 1987, some increases are expected in rates for rental of office space, communications and utilities, contract services, printing, and supplies. As a result, salaries and expenses for FY 1987 decrease relatively little despite a staff-year reduction of over 5.4% from post-Gramm-Rudman-Hollings levels.

We are continuing to seek methods of reducing costs. However, we are now very close to the absolute minimum in resources necessary to meet our responsibilities under the present law.

SENATOR ANDREWS: What efficiencies in providing services are expected?

ANSWER: In addition to their long-term cost advantages over timesharing systems, microcomputers offer a number of service advantages that result in greater operating efficiencies. The microcomputers are more accessible, faster in response time, and more adaptable to variations in programming and use than are timesharing systems.

Since the timesharing system serves many clients at once, it is difficult for all staff to gain access to the system during busy periods of the day. During these periods, system response time is slow and one may be forced to wait several minutes for the computer to respond to commands entered at the terminals. Microcomputers eliminate these problems, thereby allowing the work to be done more quickly and efficiently.

In addition, there are many low-cost programs, especially spreadsheet and graphics software for statistical and analytical applications, that can be easily and efficiently used on microcomputers. Timesharing systems cannot, as a practical matter, be used for such applications.

SENATOR ANDREWS: Please provide for the Committee the number and amount of SES bonuses provided in fiscal year 1984, 1985, planned for fiscal year 1986 and requested for fiscal year 1987.

ANSWER:

Fiscal Year	Dollar Amount	Number of Recipients
1984	$56,702	10
1985	-	-
1986	$51,303	8
1987*	$52,400	8

* The FY 1987 amount and number are estimates based on FY 1986. All other information is actual.

CURE LEGISLATION

SENATOR ANDREWS: Do you believe that the small shipper is on equal footing with the railroads when it comes to proving or disproving the Long-Cannon factors contained in the existing Staggers legislation? That is, do you believe it is easy or difficult for the captives to even gather evidence regarding railroad excess capacity or inefficiency - factors necessary to trigger Long-Cannon?

ANSWER: Small shippers are not on equal footing with the railroads when it comes to Long-Cannon analysis. At the same time, however, there are different ways to show Long-Cannon violations, some of which are not especially complex or expensive to develop.

In Ex Parte No. 347 (Sub-No. 1), Coal Rate Guidelines - Nationwide, two different approaches to the Long-Cannon issues are available, neither of which imposes significant new burdens on coal shippers. We are new developing proposals for judging rate reasonableness for commodities other than coal. We are sensitive to the needs of small shippers and are considering using different approaches to minimize their burdens of proof, including those related to Long-Cannon.

SENATOR ANDREWS: The CURE legislation provides a more accurate test for determining the revenue needs of railroads, instructs the ICC to develop a better test to determine whether a rate to a captive shipper is reasonable, places the burden on the railroad to prove whether such a rate is reasonable and codifies the Commission's market dominance procedures. Are any of these bad goals and objectives to pursue? If so, why? If not, can I then conclude that you support the CURE legislation?

ANSWER: It is not clear to us that the CURE legislation in fact provides a more accurate test for railroad revenue need. We are now studying the various CURE proposals, as well as a number of others, in an attempt to ensure that revenue adequacy findings reflect each carrier's actual financial condition.

Our testimony on S.447 before the Senate Subcommittee on Surface Transportation indicates our disagreement with that bill's approach to rate reasonableness, burden of proof, and market dominance. As discussed there, we agree with a number of the CURE bill's goals, but disagree with its methods. We believe the Staggers Act, as we are implementing it (most recently in our coal rate guidelines, new market dominance and competitive access standards, and contemplated reopening of a revenue adequacy test), strikes the proper balance between the railroad's need for price flexibility and the captive shipper's right to protection from inefficient or monopoly rates.

SENATOR ANDREWS: Do any other regulatory commissions use the same economic tests that the ICC does for determining rate reasonableness?

ANSWER: The maximum rate standards used by the ICC are unlike those used by other regulatory agencies. Most regulatory agencies regulate industries which are franchised monopolies -- such as electric utilities. Consequently, all markets are totally regulated by the regulatory agency. Such all-inclusive regulation can be achieved through traditional regulatory ratemaking approaches without adversely affecting the financial health of the regulated firm.

Railroads face substantial competition in many markets. As a consequence, applying traditional regulatory approaches to the rail industry could result in rate levels which would not allow the carriers to cover all their costs.

The Commission's maximum rate guidelines are designed to establish maximum rate standards for captive coal which are consistent with market-determined rates set for competitive traffic. Since railroad regulation must operate in this unique environment, no other regulatory agencies approach ratemaking in this manner.

SENATOR ANDREWS: On Friday, Feburary 21st at a Senate Commerce Committee hearing, a spokesman for the National Association of Regulatory Commissioners stated that the ICC uses practices that "have been discarded by every other State Commission." Is that an accurate statement? If not, why not?

ANSWER: It is not possible to determine what regulatory practices are referred to and whether this is an accurate statement without the additional background material upon which the statement is based.

It is true that the Commission's treatment of maximum rates, revenue adequacy, inflation adjustments, determination of jurisdiction, contracting, and exemption from regulation are unique. Whether other regulatory agencies have considered the approaches taken by the ICC is unknown. We believe that it is unlikely. Because of the nature of the railroad market and the special statutory requirements embodied in the Interstate Commerce Act, interstate rail regulation is distinctly different from other regulatory activities.

RATE REASONABLENESS

SENATOR ANDREWS: Under Section 229 regarding rate reasonableness, how many rate cases have been filed at the Commission?

ANSWER: 864 cases were filed under Section 229.

SENATOR ANDREWS: And of these approximately 850 cases, in how many cases did the Commission find for the shipper and therefore a reduction in rates?

ANSWER: Most of the 864 cases did not involve formal decisions on the merits. In fact, 775 have been dismissed at complainant's request or agreement based on settlements negotiated to the satisfaction of the parties. Sixty-seven cases were terminated by initial decisions of an Administrative Law Judge. Twenty-two cases remain that have not been dismissed or decided. Of the 22 remaining cases, at least 11 are expected to be settled. Of the remaining 11, nine are held in abeyance at the request of the complainant, one has been consolidated with other cases and one is in the process of being handled under special procedures.

Within a short timeframe, it was not possible to manually review the 67 initial decisions of Administrative Law Judges mentioned above to determine if the Judge found for the shippers. In addition some of the 67 initial decisions may be on appeal to the Commission, although some of the appeals have been dismissed at complainant's request or acquiescence based in large part on negotiated settlement. This information will be tabulated and provided to the Subcommittee.

Overall, viewing the status of the 864 cases, it is clear that, by and large, shippers obtained satisfaction through the Section 229 process by private negotiation or Commission decisions.

SENATOR ANDREWS: Coal rate guidelines were put into place this fall. How many rate cases are backlogged at the Commission because of the guidelines just now going into effect?

ANSWER: Discounting embraced cases and considering "proceedings" instead, there are 31 coal cases pending. Seventeen of these are being held in abeyance at the parties' request, often because settlement negotiations are in process.

SENATOR ANDREWS: What is the oldest case in the backlog?

ANSWER: No. 36180, San Antonio, Texas, Acting by and Through its City Public Service Board v. Burlington Northern Railroad Co., was filed May 6, 1975.

SENATOR ANDREWS: When will that case be decided and when do you estimate that the backlog will be cleared up?

ANSWER: The post Staggers Act phase of this case was decided in open conference on March 20, 1986. As to the remainder, the Commission has requested the parties to agree upon and submit for approval and adoption a procedural schedule that will conclude the final phase of record development in this case as expeditiously as practical. Following the record closing, the Commission will render a decision.

A similar procedure will be followed with the other backlogged cases, but it is impossible to estimate when the entire backlog will be cleared up because we do not know when the records will close. However, we are moving forward with all the cases where market dominance issues are raised, so that we can resolve this portion of the dispute without waiting for the record on the reasonableness phase to close. These cases are being given high priority.

CONTRACT RATE DISCLOSURE

SENATOR ANDREWS: What is the status of the contract rate disclosure rules? It is the Committee's understanding that the Commission is still operating under interim rules that were implemented in July 1984 in response to a federal court ruling that found the Commission's original rules too restrictive. Is that correct?

ANSWER: The Committee is correct in its understanding that interim rules, adopted in response to a court remand, are now being used. The Commission scheduled an open voting conference last October to decide on final rules. However, we were informed just prior to the vote that an agreement between the Association of American Railroads and the National Grain and Feed Association was about to be concluded. Thus, voting was postponed. That agreement was filed and, by decision served April 2, 1986, the Commission has requested supplemental comments both on the agreement and on a joint petition filed by the Houston Port Bureau, Inc. and Gulf Ports Association.

SENATOR ANDREWS: What is the status of the contract rate disclosure agreement worked out between the Association of American Railroads (AAR) and the National Grain and Feed Association?

ANSWER: The agreement was filed last November. On April 2, a decision was served which solicits comments on the specific provisions of the agreement.

SENATOR ANDREWS: How many discovery petitions and complaints has the Commission received since adoption of the interim rules in July 1984?

ANSWER: The interim rules in Ex Parte No. 387, Railroad Transportation Contracts, became effective July 16, 1984. Since adoption of the interim rules, the Commission has handled five petitions/complaints for discovery.

SENATOR ANDREWS: How many has the Commission granted?

ANSWER: Five petitions for discovery of rail contracts have been filed since adoption of the interim rules. The Commission has granted three petitions and denied two.

In each instance where the petition for discovery was granted, the Commission also instituted a complaint proceeding. (Each petition for discovery must be accompanied by a complaint to allow the Commission to institute a proceeding within the 30-day jurisdictional time frame.) Each of the three complaints was dismissed at the complainant's request, and thus the Commission did not decide the cases on their merits.

One petition was denied because petitioner shipped a non-agricultural commodity and thus did not have standing to challenge the contract on grounds of unreasonable discrimination and destructive competitive practices. The other petition was denied because the contract had been terminated.

SENATOR ANDREWS: Do you believe that it is easy for a petitioner to go through the Commission's discovery process?

ANSWER: The decision in Ex Parte No. 387, Railroad Transportation Contracts, decided June 27, 1984, and served July 13, 1984, shows clearly and explicitly what is required in a petitioner's request for discovery and complaint. If the petitioner has standing to assail the rail contract and shows a demonstrated need to review pertinent terms of the contract, discovery has been granted without exception.

SENATOR ANDREWS: What does it cost in terms of money and time for a petitioner to go through the discovery process?

ANSWER: While the Commission has a schedule of fees for the filing of various pleadings, there is no fee for filing discovery petitions. Thus, the cost to the petitioner is that of preparing the petition and serving it on the Commission and the defendant carrier(s).

The information required from the petitioner as to standing and need for more contract details relates to that shipper's business. Thus, it should be readily available and should not require a significant expenditure of time or resources.

SENATOR ANDREWS: Is the cost and time involved worth it to a small shipper? If not, why not? If so, please elaborate.

ANSWER: A decision as to whether or not the cost and time involved in filing a petition is worth it is a decision the shipper must make in each case based on its costs and perception of competitiveness in the marketplace. We believe the interim rules are easily understood and can be readily used by parties familiar with rail pricing practices. Small shippers, or any other parties who are unfamiliar with rail contracts and the discovery process, are free to ask for advice from the Commission's Office of Public Assistance or the Suspension/Special Permission Board, the operating unit which handles discovery petitions.

SENATOR ANDREWS: What happens to the summaries of filed contracts which are issued by the agency's Contract Advisory Service if the agency sunsets?

ANSWER: This work would be transferred to the Federal agency selected to continue rail regulatory activities.

SENATOR ANDREWS: Will the Departments of Transportation or Justice take over this function?

ANSWER: We do not know which agency would be selected by Congress to continue this rail regulation activity, but the Department of Transportation seems the most likely candidate.

RAIL REGULATION

SENATOR ANDREWS: In the fiscal year 1987 budget $18.7 million and 292 staff-years are budgeted for the rail regulation program. The adminstration's budget request associated with ICC sunset provides a total of $7.8 million and 155 staff-years for the Department of Transportation and $3.4 million and 68 staff-years for the Department of Justice. Even assuming elimination of existing duplication. It still leaves approximately $7.5 million of funds now requested for rail regulation by the Commission that no one is picking up. How can that be?

ANSWER: There is a difference of 69 staff-years in addition to the $7.5 million in funds to pay for rail functions. Frankly, we are puzzled as to how these complex rail functions could be performed with significantly fewer staff or lower funding. It is difficult to believe that "economies of scale" could account for a savings of this magnitude, since the salary and benefit costs of those rail functions will average $50,000 per employee in FY 1987. Because the proposal is supposed to transfer current ICC staff (presumably at current salaries), we can only conclude that the estimates for DOT and DOJ omitted any non-personnel costs (i.e., office space, telephone, utilities, research or service contracts, supplies, furniture or equipment, and so on), as well as administrative support staff.

SENATOR ANDREWS: Does this suggest that $7.5 million can be cut out of the Commission's budget for fiscal year 1987?

ANSWER: No, we do not believe that the rail functions can be performed with significantly less than the $18.7 million we have requested.

SENATOR ANDREWS: How did OMB decide that these resources would not be necessary if the ICC were sunsetted?

ANSWER: Since we were not consulted by OMB when they developed these resource estimates, we cannot explain their decision.

SENATOR ANDREWS: If the ICC were sunsetted, how many staff-years does the Commission estimate would still be necessary for railroad regulation?

ANSWER: Until more detailed information is available about how DOT and DOJ would perform these functions, we estimate that 292 staff-years are necessary for rail regulation functions. This does not include adminstrative support personnel.

COMPETITIVE ACCESS

SENATOR ANDREWS: What authority does the Commission exercise in the competitive access area? Please describe the Commission's activities in this area.

ANSWER: Competitive access is available in a number of forms -- trackage rights, reciprocal switching, terminal facilities joint use, and maintenance of competitive joint rates.

Extensive trackage rights can be ordered under 49 U.S.C. 11343 when the parties have agreed to them or when they are necessary to eliminate potential anticompetitive effects of a consolidation or merger. We receive many requests for trackage rights that have been negotiated with the owning railroad. More of this is being done where the carriers find it mutually beneficial, and where compensation is privately agreed upon. We recently issued a class exemption to streamline this activity. Ex Parte No. 282 (Sub-No. 9) Rail Consolidation Procedures--Trackage Rights Exemption.

Under 49 U.S.C. 11103(a) the Commission also has authority to order incidental trackage rights in conjunction with an order directing a railroad to make its terminal facilities available to another carrier.

Reciprocal switching can also be ordered under 49 U.S.C. 11103. This is another manner of providing competitive rail service and is similar in effect to trackage rights within terminal areas and joint terminal use.

Finally, joint rates can be ordered and joint rate cancellations prevented under the standards set forth in 49 U.S.C. 10705 and 10705a. Joint rate cancellations and reciprocal switching requests are now governed by the new rules adopted in Ex Parte No. 445 (Sub-No. 1), Intramodal Rail Competition.

A list of all the cases since the Staggers Act involving joint rate cancellations, reciprocal switching, and joint use of terminal facilities follows. It is clear from the list that the Commission has granted this relief when warranted, and will continue to do so.

Additionally, the Commission ordered extensive trackage rights in the Union Pacific-Missouri Pacific merger [366 I.C.C. 459 (1982)] and has numerous requests for such rights pending in the Southern Pacific-Santa Fe merger proceeding. Trackage rights were agreed to by the parties in the BN-Frisco merger [360 I.C.C. 788 (1980)], the CSX consolidation [363 I.C.C. 518 (1980)], and the Soo's acquisition of the Milwaukee (not printed, served September 26, 1984).

JOINT RATE CANCELLATIONS

1. Section 10705 Cases

I&S 9179	Cancellation of Intermediate Routing, Michigan Northern Railway, 365 ICC 51 (1981). Cancellation by two respondents found to be in the public interest but not those cancellations by other respondents. Those were ordered cancelled.
I&S 9255	Cancellation of Participation in Single-Factor Joint Rates on Grains, Conrail, Oct. 1981, 365 ICC 804 (1982). Cancellation found to be in the public interest.
I&S 9256	Joint-Line Cancellation on Soda Ash by Union Pacific Railroad Company, 365 ICC 951 (1982). Cancellation found to be in the public interest.

I&S 9258	Routing Between Stations Served by Conrail, November 1982 (served January 11, 1983, not printed). Cancellation found to be in the public interest.
I&S 9258 (Sub-1)	Routing Between Stations Served by Conrail, November 1982 (served January 11, 1983, not printed). Cancellation found to be in the public interest.
I&S 9261	Restricted Application of Single-Factor Joint Rates, Southern Pacific (served April 19, 1983, not printed). After ICC suspended, respondent voluntarily withdrew the proposed cancellation.
I&S 9262	Restricted Application of Single-Factor Joint Rates, Southern Territory (served November 18, 1983, not printed). After ICC suspended, respondents voluntarily withdrew the proposed cancellation.
*No. 37093	Joint Rates Via The Ann Arbor Railroad System, December 1978 (Also embraces No. 37093 (Sub-No. 1), Cancellation of Intermediate Routing, Ann Arbor Railroad System; No. 37093 (Sub-No. 2), Cancellation of Joint Rates on Potash, Ann Arbor Railroad Company; I&S No. 9207, Cancellation of Joint Rates on Potash, Ann Arbor Railroad Company; I&S No. 9207 (Sub-No. 1), Cancellation of Joint Routes and Rates, Ann Arbor Railroad System; I&S No. 9207 (Sub-No. 2), Cancellation of Joint Routes and Rates, Ann Arbor Railroad System; and I&S No. 9207 (Sub-No. 3), Cancellation of Joint Routes and Rates, The Ann Arbor Railroad). 362 ICC 493 (1979). Cancellation found to be in the public interest, except as to one commodity, as to which the routes and rates were directed to be restored. Pending on court remand.
No. 37522	Florida East Coast Railway Application of Joint Rates (served April 16, 1981, not printed). Cancellation found to be in the public interest.

Section 10705 Cases

*No. 38676	Changes in Routing Provisions - Conrail - July, 1981, (Also embraces No. 38713, Norfolk & Western Railway Company - Petition to Impose Surcharge for Conrail), 365 ICC 753 (1982). Cancellation found to be in the public interest

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* Denotes pending case.

	with one exception, as to which the gateway was directed to be reestablished. Pending on court remand.
No. 38689	Restructured Rates on Grain and Grain Products, Conrail, 365 ICC 635 (1982). Cancellation found to be in the public interest with one exception, as to which there was no majority vote. It therefore was allowed to continue in effect.
No. 38689 (Sub-1)	Restructured Rates on Grain and Grain Products, Conrail, 365 ICC 791 (1982). Cancellation found to be in the public interest.
No. 38742	Interchange Provisions at Jacksonville, FL, SCL and SRS, 365 ICC 905 (1982). Cancellation found to be in the public interest.
No. 39176 (Sub-1)	Pittsburgh & Lake Erie Railroad Co. v. Consolidated Rail Corporation (served April 9, 1985, not printed). Cancellation found to be in the public interest. Court review pending.

2. Section 10705a Cases

No. 37545	Soo Line Railroad Company v. Burlington Northern, Inc., 367 ICC 520 (1983). Dismissed because no route was actually closed.
No. 38643	Southeastern Wisconsin Transportation Corporation, DBA Central Wisconsin Railroad Company v. Chicago and Northwestern Transportation Company (served October 1, 1981, not printed). Complaint dismissed because no joint rates ever existed.
No. 38679	Restructured Rates on Recyclables, O/T Iron or Steel Scrap, Conrail, 365 ICC 596 (1982). Cancellation found to be consistent with the public interest with one exception, as to which there was no majority.
No. 39176	The Chlorine Institute, Inc. v. The Atchison, Topeka and Santa Fe Railway Company, et al. (served December 24, 1985, not printed). Settled and dismissed at complainant's request.
Suspension Case No. 70569 and No. 38733	Southern Railway System - Petition Concerning Cancellation of Joint Rates by Family Lines Rail System, 365 ICC 464 (1981). Cancellation not suspended or investigated.

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* Denotes pending case.

Suspension Case No. 70638	Family Line Rail System - Unilateral Cancellation of Joint Rates, 365 ICC 569 (1982). Cancellation not suspended or investigated.

Section 11103 Cases

No. 38726	Archer Daniels Midland Company v. Providence and Worcester Railroad Company Restoration of Prior Switching Arrangements (served March 8, 1983, not printed). Restoration of reciprocal switching arrangement denied.
No. 38891	Central States Enterprises, Inc. v. Seaboard Coast Line Railroad Company (served May 15, 1984, not printed). Reciprocal switching denied.
No. 38899	Maryland Port Administration - Petition to Determine Lawfulness of Switching Charges (served March 6, 1984, not printed). Defendant not shown to be market dominant; dismissed for lack of jurisdiction.
*No. 39021	Midtec Paper Corporation, et al. v. Chicago & North Western Transportation Company -- Use of Terminal Facilities and Reciprocal Switching Agreements (served July 17, 1985, not printed). Reciprocal switching denied. Reopened pending court approval by decision served November 14, 1985.
*No. 39176 (Sub-2)	Soo Line Railroad Co. v. Chicago and North Western Transportation Co. (served September 25, 1984, not printed). Increased reciprocal charges found reasonable; complaint dismissed. Reopened by decision served December 26, 1985. Parties are negotiating.
*No. 40021	Cargill, Inc. v. Baltimore and Ohio Railroad Co. Pending initial decision. Parties are negotiating.
*No. 40037	Cheney Lime & Cement Co. v. Seaboard System Railroad, Inc. ALJ ordered defendant to reinstate adequate rail service or to seek Commission approval to abandon line.
*No. 40046	Kansas City Power and Light Company, Et Al. v. Burlington Northern Railroad Company (pending initial decision).

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* Denotes pending case.

*No. 40068	Shenango Inc., et al. v. Pittsburgh, Charters & Youghiogheny Ry. Co. (pending initial decision).
F.D. No. 29802	Delaware and Hudson Railway Company v. Consolidated Rail Corporation - Reciprocal Switching Agreement, 366 ICC 845 (1982); 367 ICC 718 (1983). Reciprocal switching granted.
F.D. No. 29831	Western Ky. Trucking Co., Louisville & Nashville R. Co. and Illinois Central Gulf R. Co. -- Reciprocal Switching Agreement (served May 9, 1983, not printed). Reciprocal switching granted.
*F.D. No. 29883	Universal Forest Products, Inc. v. Seaboard Coast Line Railroad -- Reciprocal Switching (served June 23, 1983, not printed). Reciprocal switching denied. Pending on petition for reconsideration.

Section 11103 Cases

F.D. No. 29908	Delaware & Hudson Railway Company and New York Department of Transportation - Exemption For Use of Terminal Facilities (served May 3, 1983, not printed). Reciprocal switching granted in part.
F.D. No. 30136	Universal Forest Products, Inc. v. Atchison, Topeka & Santa Fe Railway Co., et al. (served August 3, 1983, not printed). Dismissed at complainant's request.
F.D. No. 30137	Southern Pacific Transportation Co. v. Missouri Pacific Railroad Co., et al. (served August 20 and December 10, 1985, not printed). Joint use of terminal facilities granted.
F.D. No. 30269	Denver & Rio Grande Western Railroad Company v. Burlington Northern Railroad Company -- Joint Use of Terminal Facilities (served April 24, 1984, not printed). Joint use of terminal facilities granted.
F.D. No. 30498	Florida West Railroad Co. v. Seaboard System Company -- Terminal Facilities at Port Manatee, FL (served September 19, 1984, not printed). Dismissed at complainant's request.

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* Denotes pending case.

F.D. No. 30509	Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee) v. Iowa Northern Railroad Company - Use of Terminal Facilities near Nora Springs, IA (served November 21, 1984, not printed). Dismissed for lack of jurisdiction.
*F.D. No. 30759	Denver & Rio Grande Western Railroad Co. and Missouri, Kansas, Texas Railroad -- Joint Use of Terminal Facilities at Herinton, KS (pending initial decision).
I&S 9260	Consolidated Rail Corporation, Restriction of Reciprocal Switching, Pulp Paper and Coal. After ICC suspended, respondent voluntarily withdrew the proposal.

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* Denotes pending case.

CAPTIVE SHIPPERS - COAL

SENATOR ANDREWS: Chairman Gradison, it is reported that you do not support any legislation that would restrain rail rates charged to captive shippers. Is that correct?

ANSWER: I do not support S. 447 nor S. 477. These bills contain a number of provisions that reflect earnest criticism of the Commission, and we have endeavored to take this criticism into account. The Commission has taken the following actions with respect to these issues. In Ex Parte No. 347 (Sub-No. 1), Coal Rate Guidelines, we adopted "Constained Market Pricing" guidelines for determining the maximum reasonable rate level that railroads may charge for the transportation of "captive" coal traffic. In addition, the Commission issued decisions on Market Dominance in Ex Parte No. 320 (Sub-No. 3), Product and Geographic Competition, and on Competitive Access in Ex Parte No. 445 (Sub-No. 1), Intramodal Rail Competition, which reflected agreements worked out by market participants. Another such agreement between parties with respect to contract disclosure on grain has recently been put out for comment by the Commission.

In addition, the Commission is undertaking a full scale examination of our revenue adequacy methodology to determine why our numbers do not reflect the perceived trend that railroads are improving. The Commission will also issue a rulemaking for "non-coal" maximum rates and include proposals to lower the costs for small shippers of making these cases. These actions, other contemplated actions and a commitment to move the docket of rate cases argue against the need for additional legislation to protect captive shippers.

SENATOR ANDREWS: If so, why don't you support relief for captive shippers?

ANSWER: I believe our current rules for maximum rate reasonableness, market dominance and our prospective rulemaking on standards for non-coal captive shippers will provide captive shippers the means, if necessary, to get rate relief and secure reasonable rail rates.

SENATOR ANDREWS: Has the Commission ever granted trackage rights to a railroad over a competitor's lines if the purpose were to serve a captive shipper? If so, please explain where and when. If not, why not?

ANSWER: Since the Transportation Act of 1920, the Commission has granted numerous voluntary trackage rights requests, and even imposed involuntary trackage rights as conditions to consolidations, to a railroad over a competitor's lines. These grants of trackage rights have led to expanded service to shippers. Trackage rights requests normally specify the line to be served, but not the shippers. Nor do these requests specify which, if any, shippers are captive. Hence, our data is not precise enough to be able to tell how many, if any, of these shippers who received added competitive service were captive. As previously indicated, trackage rights is only one form of competitive access available under the Interstate Commerce Act. The term is often used to embrace the various forms of access, as the benefits to the shipper are similar in all instances. The Commission has required alternative rail service to be made available in many instances. The new rules adopted in Ex Parte No. 445 (Sub-No. 1) are directed towards granting relief from anticompetitive behavior and also focus on captive shipper concerns. We are confident that existing statutory provisions regarding access and rate reasonableness, as implemented by us, will protect captive shippers from monopoly abuses.

SENATOR ANDREWS: What is left for the Commission to do in the area of coal rate guidelines?

ANSWER: The Commission has issued final guidelines in Ex Parte No. 347 (Sub-No. 1). One petition for clarification is pending, and will be addressed shortly. The Commission is proceeding to apply the guidelines to those pending coal cases in which the records are closed. As with all rulemakings that adopt "guidelines," there will be questions of interpretation to be answered as we apply the guidelines to particular fact patterns. However, this "fine tuning" will not delay our decisions. As we have stated, these cases have the highest priority.

COST TO PETITIONERS

SENATOR ANDREWS: Has the Commission done everything to alleviate the costs incurred by petitioners in rate cases?

ANSWER: The Commission is sensitive to the cost of preparing rate cases. In developing standards for non-coal cases, we are paying special attention to this issue, as it relates to small shippers. In the coal cases, we believe the costs of preparing the record and the need for accurate and complete information are fairly and properly balanced. We note also that: (1) the statute provides for the railroads to assume the burden of proof in the most suspect cases, i.e., those we suspend or investigate; and (2) our new market dominance rules place the burden of proof on the railroads in the resolution of geographic and product competition issues, which arise in the more complex cases.

SENATOR ANDREWS: What has the Commission done to assist the small shipper, the small community in complex rate cases? Please elaborate.

ANSWER: In considering standards for application in rail maximum rates cases, the Commission focused its efforts on the development of standards for coal cases. Generally neither small shippers nor small communities are among the parties in maximum coal rates cases before the Commission. Thus, to date we have not really been faced with the issue of how best to assist small shippers and communities in rail maximum rates cases.

Now that the Commission has completed general guidelines for movements of coal by captive shippers, it will in the near future vote on proposals to seek comments on alternative guidelines for non-coal movements and for small shippers. Although we believe that the coal rate guidelines are appropriate for high volume repetitive movements of coal, alternative guidelines for non-repetitive movements by captive shippers or movements by small captive shippers may be needed. Since the costs incurred by petitioners in some rate cases may be high, the Commission is very concerned that the cost of such a case for a small shipper or community may preclude filing a complaint or processing a complaint and ultimately getting a decision on rate relief. The proposed rulemaking for non-coal rate proceedings will shortly be considered by the Commission.

Finally, our Office of Public Assistance is prepared to offer help to small shippers and communities in rate cases, as it has done in the past in the abandonment area.

COMMISSION'S RULEMAKING AGREEMENTS

SENATOR ANDREWS: As the new Chairman, can you give the Committee any indication that the Commission will function any more efficiently than it has in the recent past?

ANSWER: The Commission has been decreased from seven members to five as of December 31, 1985. This in itself facilitates speedier decisions. In addition, the Commission finally has in place many of the rulemakings which will guide parties and facilitate expeditious decisions by the Commission on the most difficult cases the Commission faces. I am committed to moving the Commission's docket quickly and effectively and have received the entire Commission's support to do this.

SENATOR ANDREWS: What has the Commission done administratively that would offer this Committee encouragement about the direction the Commission is going?

ANSWER: The Commission voted to reorganize to streamline its overhead and functions. In addition, we have made extensive use of the exemption provisions of the Act to minimize or eliminate economic regulation that served no public purpose. Now, having the rulemakings in place to deal with difficult captive rail shipper issues will aid us in processing those cases.

SENATOR ANDREWS: What are the major rulemakings that are now before the Commission? When do you expect to make a decision in these rulemakings? For each one please provide an approximate date and brief description of work to be done before a decision is reached.

ANSWER: The information below lists those major rulemakings, grouped by their current status.

MAJOR RULEMAKINGS EXPECTED TO BE COMPLETED BY MID 1986

These cases are in the final stages. Either decisions have been drafted or are soon to be completed.

Ex Parte No. 230 (Sub-No. 6)	Improvement of TOFC/COFC Regulation. Commission voted in open conference 9/20/84; written decision pending. Target: Spring 1986.
Ex Parte No. 274 (Sub-No. 11)	Abandonment Regulations-Costing. Instituted 1/11/85, served 1/22/85. Target: 5/86.
Ex Parte No. 274 (Sub-No. 13)	Rail Abandonment-Use of Rights-of-Ways as Trails. Instituted 2/11/85, served 2/20/85. Target: 4/86.
Ex Parte No. 274 (Sub-No. 15)	Revision of Abandonment Regulations. Instituted 8/22/85, served 8/29/85. Target: 5/86.
Ex Parte No. 346 (Sub-No. 8)	Exemption from Regulation-Box Car Traffic. Reopened 6/26/84, notice served 6/27/84. Voting conference held 12/11/85. Target: 5/86.
Ex Parte No. 346 (Sub-No. 19)	Box Car Hire and Car Service. Renoticed 11/21/85. Voting conference to be held Spring 1986.
Ex Parte No. 394 (Sub-No. 2)	Cost Ratio for Recyclables-1986 Determination. Served 1/10/86. Target: Spring 1986.
Ex Parte No. MC-43 (Sub-No. 16)	Lease and Interchange of Vehicles (Identification Device). Target: 6/86.
Ex Parte No. MC-43 (Sub-No. 17)	Authorized Carrier Lease of Equipment and Diversion to Private Carriers. Target: 6/86.
Ex Parte No. MC-178	Investigation into Motor Carrier Insurance Rates; Ex Parte No. MC-178 (Sub-No. 1), Petition for Investigation of Insurance Surcharges; and Ex Parte No.

MC-178 (Sub-No. 2), Petition for Rulemaking of the American Bus Association Concerning Enforcement of Minimum Insurance Standards. Draft decisions are now under consideration by the Commission. Various courses of action are possible, and the steps necessary to finalize are dependent upon the choices the Commission makes. Final action in all or some of them could be delayed beyond FY 1986, but interim guidelines are expected to be adopted shortly.

MAJOR RULEMAKINGS EXPECTED TO BE COMPLETED IN LATE FISCAL YEAR 1986 OR IN EARLY FISCAL YEAR 1987

The cases listed below are not as close to final decisions. Notices of proposed rulemaking are under preparation in the first two. The Commission is now voting on a notice in Ex Parte No. 387 to request further comments. Thus, in the first three, the Commission must decide whether to issue notices of proposed rules, and what those notices propose.

In the remainder, notices of proposed rulemaking have been issued (except as noted) and the records are under review, with decisions being prepared.

Ex Parte No. 334 (Sub-No. 6)	Review of Car-Hire Regulations. Advance notice of proposed rulemaking served 4/29/85.
Ex Parte No. 462	Exemption of Demurrage from Regulation. Advance notice of proposed rulemaking served 12/16/85.
Ex Parte No. 387	Railroad Transportation Contracts. Interim rules served 7/13/84.
Ex Parte No. 290 (Sub-No. 2)	Railroad Cost Recovery Procedures. Reopened 3/3/86, served 3/6/86.
Ex Parte No. 290 (Sub-No. 4)	Railroad Cost Recovery Procedures-Productivity Adjustment. Instituted 9/10/84.
Ex Parte No. 347 (Sub-No. 2)	Use of Constrained Market Pricing in Noncoal Rate Proceedings. (Not yet formally instituted.)

Ex Parte No. 393 and 393 (Sub No. 1)	Standards for Railroad Revenue Adequacy. (Ex Parte No. 393 has not yet been formally reopened.)
Ex Parte No. 282 (Sub-No. 11)	Rail Consolidation Procedures-Continuance in Control of a Nonconnecting Carrier. Instituted 12/19/85, served 1/15/86. Target: 6/86.
Ex Parte No. 328	Investigation of Tank Car Allowance System. Served 9/20/85. Target: 7/86.
Ex Parte No. 55 (Sub-No. 43A)	Acceptable Forms of Requests for Operating Authority (Motor Carriers and Brokers of Property), and Ex Parte No. MC-142 (Sub-No. 1), Removal of Restrictions from Authorities of Motor Carrier of Property. Decision being drafted implementing earlier Commission vote. Target: 7/86.
Ex Parte No. MC-65 (Sub-No. 6)	Passenger Motor Carrier Superhighway and Deviation Rules. Supplemental notice for comment to be issued. Target: 9/86.
Ex Parte No. MC-142 (Sub-No. 2)	Freight Forwarder Restrictions. Notice of proposed rulemaking being prepared. Target: 9/86.
Ex Parte No. MC-170 (Sub-No. 1)	Short Notice Effectiveness for Independently Filed Single-Factor Motor-Water Rates. Commission voted at open conference to issue supplemental notice requesting comments from Federal Maritime Commission and other interested persons. Target: 9/86.
Ex Parte No. MC-169 (Sub-No. 1)	Automatic Expansion of Rate Freedom for Motor Carriers of Property and Freight Forwarders. Notice of proposed rulemaking recently issued. Target: 9/86.
Ex Parte No. MC-177	National Industrial Transportation League - Petition to Institute Rulemakig on Negotiated Motor Common Carrier Rates. Advance notice of proposed rulemaking issued. Open voting

conference to be scheduled to address how to proceed. Notice of Proposed Rulemaking could then be issued. Target: 9/86.

SENATOR ANDREWS: What major rulemakings did the Commission finalize in fiscal year 1985 and what ones do you estimate will be finalized in fiscal year 1986?

ANSWER: The lists below reflect major rulemakings completed in FY 1985, and those already completed in FY 1986. (The information differs somewhat from page 9 of the FY 1987 budget justification material because we here use the service date as the completion date.)

MAJOR RULEMAKINGS COMPLETED DURING FISCAL YEAR 1985

Ex Parte No. MC-1	Payment of Rates and Charges of Motor Carriers. Served 9/11/85.
Ex Parte No. 241 (Sub-No. 1)	Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices. Served 5/21/85.
Ex Parte No. 346 (Sub-No. 7)	Railroad Exemption - Export Coal. Served 5/13/85.
Ex Parte No. 347 (Sub-No. 1)	Coal Rate Guidelines - Nationwide. Served 9/3/85.
Ex Parte No. 394 (Sub-No. 1)	Cost Ratio for Recyclables - 1983 Determination. Served 6/25/85.
No. 39777	Chicago and North Western Transportation Company - Petition for Exemption. Served 8/16/85.
Ex Parte No. MC-37 (Sub-No. 36)	Houston, TX Commercial Zone. Served 3/13/85.
Ex Parte No. MC-37 (Sub-No. 37)	New York, NY Commercial Zone. Served 8/23/85.
Ex Parte No. 43 (Sub-No. 14)	Lease and Interchange Regulations (Master Leases). Served 11/30/84.
Ex Parte No. MC-43 (Sub-No. 15)	Elimination of Thirty Day Leasing Requirements. Served 12/6/84.
Ex Parte No. 55 (Sub-No. 57)	Exemption of Certain Transactions Under 49 U.S.C. 11343. Served 12/11/84.

Ex Parte No. 55 (Sub-No. 57A)	Modification of Small Carrier Transfer Regulations for Transactions Involving Motor Carriers of Property. Served 2/14/85.
Ex Parte No. 55 (Sub-No. 62)	Applications for Certification of Registration for Certain Foreign Carriers. Served 5/17/85.
Ex Parte No. MC-97 (Sub-No. 2)	Investigation into Practices of Motor Common Carriers of Property on Residential and Redelivered Shipments. Served 2/4/85.
Ex Parte No. MC-172	Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments. Served 12/13/84.

MAJOR RULEMAKINGS COMPLETED IN FISCAL YEAR 1986

Ex Parte No. 274 (Sub-No. 14)	Rail Abandonments - Offers of Financial Assistance. Served 1/16/86.
Ex Parte No. 320 (Sub-No. 3)	Use of Product and Geographic Competition in Market Dominance Determinations. Served 10/31/85.
Ex Parte No. 334 (Sub-No. 7)	Suspension of Car-Hire Update. Served 1/2/86.
Ex Parte No. 387 (Sub-No. 958)	Exemption from Regulation - Shipments Subsequently Made Subject to a Contract Rate. Served 12/27/85.
Ex Parte No. 392 (Sub-No. 1)	Class Exemption for the Acquisition and Operation of Rail Lines Under 49 U.S.C. 10901. Served 1/15/86.
Ex Parte No. 397	Exemption of Railroads from Securities Regulation Under 49 U.S.C. 11301. Served 2/10/86.
Ex Parte No. 445 (Sub-No. 1)	Intramodal Rail Competition. Served 10/31/85.
Ex Parte No. MC-37 (Sub-No. 38)	Petition to Establish a Commercial Zone of Cameron, Hidalgo, Starr, and Willacy Counties, TX. Served 1/15/86.

Ex Parte No. MC-43 (Sub-No. 18)	Lease and Interchange of Vehicles - Segregated Escrow Funds. Served 2/28/86.
Ex Parte No. MC-64 (Sub-No. 2A)	Special Temporary Authority Procedures. Served 3/11/86.
Ex Parte No. MC-73 (Sub-No. 1)	Interchange Policies at International Boundary Lines. Served 2/7/86.
Ex Parte No. MC-82 (Sub-No. 1)	Procedures in Motor Carrier Revenue Proceedings - Intercity Bus Industry. Served 2/20/86.
Ex Parte No. MC-95 (Sub-No. 3)	Regulations Governing the Adequacy of Intercity Motor Common Carrier Passenger Service. Served 3/5/86.
Ex Parte No. MC-175	International Joint Through Rates Involving Ocean Carriers - Revision of Tariff Filing Requirements. Served 1/17/86.
Ex Parte No. MC-176	Short Notice Effectiveness for Independently Filed Motor Passenger Carrier Rates. Served 3/21/86.
MC-C-10939	Petition for Waiver or Modification of the Recordkeeping Requirements for Shipments of Low Value Packages. Served 3/28/86.

SENATOR ANDREWS: What is the status of the NIT League, Chemical Manufacturers Association and American Association of Railroads agreement on competitive access, joint rates, through routes and reciprocal switching? Please elaborate.

ANSWER: This agreement was implemented, with only minor changes, in Ex Parte No. 445 (Sub-No. 1), Intramodal Rail Competition, and is now in effect. A court challenge to it has been filed and is pending. A copy of our decision has been provided to subcommittee staff.

SENATOR ANDREWS: What is the Railroads Against Monopoly (RAM) group chief complaint against this agreement?

ANSWER: According to RAM, the AAR/NITL/CMA rules are so vague as to be meaningless. It argued that the larger carriers that are direct competitors of smaller carriers must be prevented from squeezing the smaller carriers out of business.

RAM contended, therefore, that specific, easily applied tests should be adopted, and proposed that a proposed cancellation should be suspended if: (1) it allows a carrier to charge a rate returning a higher revenue/variable cost ratio than the revenue/variable cost ratio it gets on its competing route; or (2) if the mileage over the joint rate or route proposed to be cancelled is not more than the mileage of the joint rates and through routes that would remain in effect.

RAM also argued that a proposed cancellation should be suspended if it would reduce (as opposed to eliminate in the AAR/NITL/CMA rules) effective railroad competition for the affected traffic.

SENATOR ANDREWS: What are the National Grain and Feed Association's (NGFA's) criticisms of this agreement?

ANSWER: NGFA's chief complaint about the AAR/NITL/CMA rules is that they provided no strong assurance that competitive intramodal rail service would be preserved. It found them cumbersome and vague, and instead endorsed RAM's revenue/variable cost and mileage tests.

NGFA also complained that the AAR/NITL/CMA rules ignore joint terminal use, incorporate into investigation cases standards such as geographic competition not contemplated by the underlying statute, 49 U.S.C. 10705(e), and incorporate cost and economic criteria that made reciprocal switching cases more difficult for shippers.

SENATOR ANDREWS: What is the status of the NIT League, American Paper Institute and American Association of Railroads agreement on market dominance? Please elaborate.

ANSWER: This agreement was implemented in Ex Parte No. 320 (Sub-No. 3), Product and Geographic Competition, in which the Commission adopted revised rules that will: 1) place the burden of proving the existence of effective product or geographic competition on the railroads in all cases; 2) establish that the showing of product or geographic competition with respect to a receiver would not, standing alone, establish the existence of such competition with respect to an originator, and vice-versa; 3) consolidate the current product competition guidelines; and 4) make certain changes in the wording of the geographic competition guidelines. A copy of the decision has been provided to subcommittee staff.

MOTOR CARRIER DATA COLLECTION

SENATOR ANDREWS: Is there a logical group in DOT to transfer these functions to?

ANSWER: In the current competitive environment or with total truck deregulation, I do not believe the government needs to collect this data. If this data collection is retained, the Department of Transportation should decide where they can best perform this function.

SENATOR ANDREWS: If your agency is not sunsetted, can you tell the Committee the level of priority placed on data collection if it stays with the Commission?

ANSWER: The Commission will enforce its rules and promptly collect the required data. We would continually monitor our need for this data to carry out our regulatory functions. If we find that collection of certain data is not necessary, then we would consider a change of rules and the elimination of the filing requirement for that data.

SENATOR ANDREWS: What has your agency done with regard to the follow-up requirements for new motor carrier entrants? Specifically, do you look at the growth index or increased revenue of new trucking companies to upgrade them from Class three to Class one?

ANSWER: The threshold for reclassification from Class III to Class II is $1.0 million in annual gross operating revenues, and $5.0 million from Class II to Class I. Generally, any carrier exceeding these levels for three consecutive years is reclassified. To eliminate the effects of inflation from the classification process, the Producer Price Index developed by the Bureau of Labor Statistics is used to deflate annual operating revenues. The Commission relies upon voluntary compliance by new trucking companies to provide notification when their annual revenues reach levels, as deflated, calling for reclassification.

SENATOR ANDREWS: What is the total amount of Commission resources expended in following new motor carrier entrants?

ANSWER: In light of the fact that the Commission relies upon new motor carriers to provide notification when their annual revenues reach levels which call for upgrading classifications, there are no staff resources used in collecting this information. Such notifications are, nonetheless, filed with all other motor carrier data. Only a fraction of one staff-year is used specifically for these filings.

BORDER RECIPROCITY

SENATOR ANDREWS: There has been some discussion in recent months about possible discrimination shown toward U.S. motor carriers by the Canadian government. Can you tell the Committee what, if anything, your Agency has done to strengthen fitness requirements for Canadian carriers entering the U.S.

ANSWER: Canadian motor carriers seeking authority to operate in the United States must satisfy the same fitness standards applicable to other motor carriers. Canadian and U.S. regulated carriers are subject to the same insurance requirements and the same safety regulations. Motor carriers of both Nations are also subject to Commission enforcement actions on an equal basis.

SENATOR ANDREWS: Are you participating in the current GAO study to examine this problem?

ANSWER: The Commission is not now participating on any formal basis in the General Accounting Office's study of U.S.-Canadian trucking operations. Commission staff, however, have been contacted informally from time to time by GAO staff, and have cooperated in providing tehnical information and advice.

SENATOR ANDREWS: What is the total amount of Commission resources, by office, expended in the area of monitoring foreign carrier fitness?

ANSWER: The Commission monitors fitness of foreign motor carriers in the same manner as it monitors U.S. motor carriers. In FY 1985, the Commission received 248 applications filed by Canadian-domiciled companies seeking permanent operating authority within the U.S. It should be noted that although the licensing moratorium imposed on Canadian carriers was lifted in November of

1982, enforcement of the moratorium on Mexican-domiciled companies has continued. Therefore, no applications from Mexican-domiciled companies were processed.

The Office of Compliance and Consumer Assistance (OCCA) field investigative staff routinely reviews foreign applicants' fitness. This review includes examination of information collected by DOT's Bureau of Motor Carrier Safety (BMCS) for evidence pertaining to an applicant's safety fitness record. In addition, when it appears that an applicant has falsely claimed to be domiciled in the U.S., OCCA will investigate and present its findings to the Commission. Monitoring existing carriers' continuing fitness also involves some staff resources; however, this activity is conducted as part of the fitness monitoring effort for all carriers.

The Office of Proceedings adjudicates applications for permanent operating licenses and issues a certificate or permit to a carrier only after receiving evidence from the carrier's insurance company that it holds the coverage required by law.

We are not now able to break out data showing the amount of Commission resources specifically devoted to foreign carriers.

REGULATION OF WATER BORNE COMMERCE

SENATOR ANDREWS: Should the ICC be abolished, will there be a mechanism for transferring its regulatory authority over interstate and foreign waterborne commerce to another Federal agency?

ANSWER: First, it should be noted that this Commission holds limited authority over domestic water transportation. Almost all domestic water traffic moves in bulk form (e.g., grain, coal, chemicals), and is statutorily exempt from regulation. Consequently, little regulatory authority would have to be transferred.

Any legislation abolishing the Interstate Commerce Commission would include specific provisions for transferring regulatory functions Congress wants to continue in this area to an appropriate agency. The Department of Transportation took such an approach with respect to domestic water carrier deregulation in legislation it submitted to the Congress in September 1985. That draft legislation specifically would make the Federal Trade Commission Act applicable to water carriers regulated by the Interstate Commerce Commission, and, for purposes of household goods transportation, water carriers regulated by the Federal Maritime Commission.

SENATOR ANDREWS: If the intent is to transfer such authority, which Federal agency will be delegated the regulatory role?

ANSWER: The Congress has the power to decide what regulation needs to be continued and which agency or agencies should assume that role. Possibilities include transferring: (1) environmental issues regarding construction or operation by water carriers to the Army Corps of Engineers when wetlands are involved, and to the Department of Transportation for safety matters; (2) antitrust immunity issues to the Department of Justice; and (3) joint rates issues to the Federal Maritime Commission or the Department of Transportation. The Commission has not yet taken a position on what water carrier-related functions should be continued or which agency(ies) should continue them.

SENATOR ANDREWS: If not, please provide a full and detailed explanation for the decision not to continue the regulation of interstate and foreign waterborne commerce currently under the purview of the ICC.

ANSWER: Abolition of regulation of interstate and foreign waterborne commerce would appear to have minimal impact on domestic water carriers. Because of the statutory exemption for bulk traffic, the Interstate Commerce Act confers very limited authority to the Commission with respect to interstate and foreign water carrier transportation. Assuming the traffic is nonexempt, the ICC has jurisdiction to license domestic water carriers and regulate their rates, to regulate rates of foreign water carriers providing a service under joint rates with carriers subject to the Commission's jurisdiction (motor, rail, or water carriers),[1] and to regulate acquisition of domestic water carriers by other carriers.

The Commission goal has been to ensure that its regulatory actions enable the water carriers to compete on equal footing with other modes of transportation. For example, in the licensing area, much of which is exempt under 49 U.S.C. 10542, 10543, and 10544, the Commission promotes competition by liberally applying the licensing provisions of 49 U.S.C. 10922 and 10923. This approach assists water carriers that face significant competitive barriers such as limited domestic harbor facilities and high equipment costs. In the rates area, the Commission regularly grants exemptions from our rate filing requirements for water contract carriers under the provisions of 49 U.S.C. 10702. Also, in Ex Parte No. MC-175, International Joint Through Rates Involving Ocean Carriers-Revision of Tariff Filing Requirements, served January 17, 1986, the Commission amended C.F.R. 1312.37(c)(1) to eliminate the mandatory inland division breakout billing for international through rate tariffs.[2] With respect to finance transactions, only 34 proceedings involving water carriers have been filed since 1976 (2 in FY 1986, one of which was dismissed).[3] The largely-exempt domestic water carrier industry is highly competitive and should benefit further by eliminating the paperwork burdens now imposed.

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[1] Trailer Marine Transport v. Federal Maritime Commission, 602 F.2d 379 (D.C. Cir. 1979); Puerto Rico Maritime Shipping Authority v. Interstate Commerce Commission, et al., 645 F.2d 1102 (1981).

[2] The Commission regulates domestic carriers that participate in international intermodal traffic moving between United States and foreign points. 49 U.S.C. 10501, 10521, 10541, and 10561. Domestic carriers providing such service must file tariffs with the Commission. 49 U.S.C. 10761 and 10762. The tariff filing regulation with respect to this traffic appears at 49 C.F.R. 1312.37.

[3] Purchase, merger, consolidation, acquisition and transfer jurisdiction is contained at 49 U.S.C. 11343 and 10926. Regulations governing transactions under these sections are codified at 49 C.F.R. 1181, Subpart B.

SENATOR ANDREWS: Please provide a full and detailed explanation about how the proposal to terminate the ICC will affect the regulation of joint motor/ocean rates between the offshore States (Alaska and Hawaii) and the contiguous United States.

ANSWER: While the Federal Maritime Commission holds exclusive regulatory authority over port-to-port movements, the Interstate Commerce Commission has jurisdiction over joint through rates (combined operations of water/motor carriers and some water/rail operations). The Commission rarely receives complaints concerning joint motor/ocean rates.

The Commission's major activity in this area in the past year has been to consider proposals to reduce regulation to enable carriers and shippers in this trade to operate more efficiently. In Ex Parte No. MC-175, International Joint Through Rates Involving Ocean Carriers - Revision of Tariff Filing Requirements, we granted a request by the ocean carriers to reduce tariff filing burdens. Also, the Commission currently is considering a proposal to reduce the notice period for independently filed single-factor domestic motor-carrier property rates in Ex Parte No. MC-170 (Sub-No. 1), Short Notice Effectiveness for Independently Filed Single-Factor Motor-Water Rates.

Since our activity in this area has been minimal, and we have already moved to reduce regulatory burdens, termination of the ICC should not have a significant impact on this traffic. However, should Congress conclude that portions of this traffic should be regulated, language specifically conferring such authority to the Federal Maritime Commission or the Department of Transportation could be included in any deregulation legislation.

COMMISSIONERS' OFFICES

SENATOR ANDREWS: Why does the total budget authority requested for Commissioners and their offices go up 3 percent over the fiscal year 1986 level?

ANSWER: The increase in total budget authority for the Commissioners and their offices is due to statutorily-required within grade pay increases, performance-based salary increases, and awards required under the Performance Management Recognition System.

SENATOR ANDREWS: The FY 1987 budget for personnel and compensation in Commissioners' offices rises 4.2 percent over the 1986 level. How much of this is due to pay increases, incentive awards, or estimates of severance pay, terminal leave and unemployment compensation? Please provide dollars for each.

ANSWER: The FY 1987 budget request for the Commissioners' offices does not include any funds for severance pay, terminal leave, or unemployment compensation since there are no involuntary personnel reductions planned in these offices for FY 1987. The 4.2 percent, or $111,000, increase in personnel compensation and benefits for the Commissioners' offices is the result of $100,000 provided for within grade increases and incentive awards for GS employees, and salary increases and bonuses for Performance Management Recognition System employees, plus $11,000 for benefits associated with the personnel compensation increases.

SENATOR ANDREWS: How much was spent by the Chairman and each Commissioner for travel in fiscal year 1985 and estimated for 1986?

ANSWER: The following reflects the travel funds spent in fiscal year 1985 and estimated for fiscal year 1986 by the Chairman and each Commissioner:

	FY 1985	FY 1986
Chairman Gradison	$2,100	$5,000
Vice Chairman Simmons	900	4,125
Commissioner André	500	4,125
Commissioner Lamboley	2,200	4,125
Commissioner Sterrett	-0-	4,125
Former Commissioner Strenio	200	1,000
Former Chairman Taylor	2,200	1,000
Total	$8,100	$23,500

It should be noted that the Commissioners curtailed their travel in FY 1985, due to the tight funding situation.

SENATOR ANDREWS: Of the $12,500 requested for travel for the Chairman and the two satellite offices in FY 1987, how much is for the Chairman and how much for each office?

ANSWER: The $12,500 requested for travel by the Chairman and two satellites offices in FY 1987 is allocated as follows: Chairman's office $5,000; Office of Human Resources $3,400; and Office of Legislative and Public Affairs $4,100.

SENATOR ANDREWS: Of the $524,000 requested under other expenses, how much is for supplies and how much for new equipment?

ANSWER: Of the $524,000 requested under other expenses, $19,000 is requested for supplies and there is no funding request for new equipment.

SENATOR ANDREWS: How much does it cost to maintain each Commissioner's office at the six-person level? How much of that is personnel? Please list by Commissioner.

ANSWER: The estimated cost to maintain each Commissioner's office follows:

	Personnel Compensation and Benefits*	Total
Vice Chairman Simmons	$ 346,300	$ 419,425
Commissioner André	360,900	434,025
Commissioner Lamboley	375,400	448,525
Commissioner Sterrett	376,800	449,925
Total	$1,459,400	$1,751,900

* Assumes each office is fully staffed and that present attorney-advisor vacancies are filled at the senior GM-15 level. Differences among the offices are due to differing seniority in existing staff.

SENATOR ANDREWS: How much does it cost to maintain the Chairman's office at the seven-person level? How much of that is personnel?

ANSWER: The total estimated cost to maintain the Chairman's office is $550,700 of which $461,700 is for personnel compensation and benefit costs.

SENATOR ANDREWS: Of the total funds requested under the category "Commissioners and their offices", how much of personnel compensation and benefits, travel and other expenses is for the Office of Legislation and Governmental Affairs, Office of Public Affairs, and Office of Human Relations? Please provide the funding amounts for each category for each office.

ANSWER: Cost estimates for FY 1987 for the Offices of Legislation and Public Affairs, which was created from the former Office of Legislation and Governmental Affairs and the Office of Public Affairs in February 1986, and the Office of Human Resources follow.

	Legislation and Public Affairs	Human Resources
Personnel Compensation and Benefits	$593,400	$239,500
Travel	4,100	3,400
Other Expenses	113,000	51,000
Total	$710,500	$293,900

OFFICE OF THE SECRETARY

SENATOR ANDREWS: Personnel compensation and benefits for the Office of the Secretary increases by 4.3 percent. Why? What components make up this increase and how much for each component?

ANSWER: The 4.3 percent, or $92,000, increase in personnel compensation and benefits for the Office of the Secretary is the result of $83,000 provided for within grade increases and incentive awards for GS employees, salary increases and bonuses for Performance Management Recognition System employees, and career-ladder promotions, plus $9,000 for benefits associated with the personnel compensation increases.

SENATOR ANDREWS: What makes up the increase for "other expenses" in the Office of the Secretary? Please provide by category of costs and identify any new equipment purchases.

ANSWER: The $40,000 increase for "other expenses" in the Office of the Secretary in FY 1987 is the result of a $16,000 planned purchase of new computer equipment and $24,000 due to inflationary increases in the cost of goods and services.

SENATOR ANDREWS: Why does "other expenses" constitute 34 percent of this office's total expenses while other Commission offices spend approximately 18 percent for "other expenses"?

ANSWER: The "other expenses" in the Office of the Secretary constitute a higher percentage of the total budget authority due mainly to the lower grade and salary level of this Office's employees. The average personnel compensation costs for employees in this office is over 40% lower than the Commission-wide average. Therefore, since allocated costs for space, communications, mail, computer time-sharing, and miscellaneous administrative costs are based on the number of employees in an office, these "other expenses" represent a much larger portion of the total expenses than they do in other Commission offices.

OFFICE OF PROCEEDINGS

SENATOR ANDREWS: In the budget justification page 27, it is stated that "on the rail side... while some areas are leveling off, others are increasing as the carriers make greater use of their new flexibility and the Commission's exemption power." Please elaborate for the Committee on what "areas" are leveling off and what "areas" are increasing.

ANSWER: Finance-related work is increasing and has become more time-sensitive, as carriers seek to use the exemption authority of 49 U.S.C. 10505 to streamline and shorten regulatory review of such actions as individual acquisitions and sales of rail lines and changes in corporate structure. Once a trend develops, it is addressed through rulemaking or industrywide class exemptions, and in this fashion, our workload is reduced. However, we cannot always anticipate industry needs, and cases are becoming more complicated.

The new standards adopted in Ex Parte No. 347 (Sub-No. 1), Coal Rate Guidelines - Nationwide; Ex Parte No. 445 (Sub-No. 1), Intramodal Rail Compeition; and Ex Parte No. 320 (Sub-No. 3), Product and Geographic Competition, freed up numerous cases previously held in abeyance pending these decisions. While these are receiving our highest priority, they will continue to require substantial staff work through 1987, as initial decisions and appeals are processed.

Areas in which work is leveling off include the following: State certification cases; rate exemption requests now that Ex Parte No. 387 (Sub-No. 958), Exemption from Regulation - Shipments Subsequently Made Subject to a Contract Rate, has been adopted; and rail abandonment activity related to Conrail and the special provisions of the Northeast Rail Services Act of 1981. In the latter two areas, however, the nature of the cases did not require a substantial commitment of staff resources.

SENATOR ANDREWS: Please provide for the Committee the number of abandonments and associated miles filed for in fiscal years 1984, 1985 and 1986 to date, and the number of petitions (and miles) agreed to.

ANSWER: The following table contains these data.

ABANDONMENTS SINCE THE STAGGERS ACT

Fiscal Year	Filed		Granted		Denied		Dismissed	
	No.	Mi.	No.	Mi.	No.	Mi.	No.	Mi.
				Applications				
1981	161	3,219	81	1,342	1	12	11	25
1982	382	4,821	381	5,151	3	52	34	696
1983	178	3,702	123	2,454	2	28	7	91
1984	472	3,878	419	3,083	7	548	5	69
1985	138	2,877	148	2,343	8	219	30	657
1986 to date	38	840	48	932	2	61	1	22
Subtotal	1,369	19,337	1,200	15,305	23	920	88	1,560
				Notices of Exemption 1/ 2/				
1985	81	412	76	408	0	0	2	36
1986 to date	28	215	39	181	0	0	0	0
Subtotal	109	627	115	589	0	0	2	36
				Petitions for Exemption 1/				
1985	12	216	43	299	0	0	4	10
1986 to date	12	66	8	55	0	0	2	1
Subtotal	24	282	51	354	0	0	6	11
Total	1,502	20,246	1,366	16,248	23	920	96	1,607

No. = number filed
Mi. = mileage

1/ There were some notices and petitions for exemption filed pre-1985. They total 100-150 cases. Computer records do not include these cases.

2/ Notices of exemption are the "out of service" line class exemptions.

SENATOR ANDREWS: The workload indicators for the Office of Proceedings seem to be decreasing in a number of areas: motor-licensing, rail-rates, rail-abandonments, and rail-rulemaking. Why doesn't the requested level of personnel decrease?

ANSWER: The following discussion addresses the question separately for rail and motor functions.

I. Rail

The Commission has shown a reduction in the number of rates cases, abandonments, and rulemakings while maintaining a steady employment level because of the nature of the cases involved.

The largest number of rate-related rail cases in Fiscal Year 1985 involved petitions to exempt the payment of reparations or waiver of undercharges where a railroad and shipper had agreed to a contract before the movement occurred, but did not finalize and file a contract with the Commission prior to the movement. Because of the volume and uncontested nature of these cases, the Commission granted a class exemption for this category of traffic in Ex Parte No. 387 (Sub-No. 958), Exemption from Regulation--Shipments Subsequently Made Subject to a Contract Rate, served December 27, 1985. Hence, this large volume of cases (122 in Fiscal Year 1985) will no longer require decisions.

However, the absence of these cases will be more than compensated for by the effects of the Commission's implementation of Ex Parte No. 347 (Sub-No. 1), Coal Rate Guidelines - Nationwide. Under these guidelines, the Commission will decide the very complex and difficult issue of whether the rates that railroads have set for coal are above a reasonable maximum level. Numerous cases are pending. Each requires analysis of a large record, resolution of discovery questions, analyses of voluminous engineering, accounting, and economic data, and preparation of quite a number of decisions in each proceeding.

As a result of the revised market dominance rules, we are also moving forward with a considerable number of non-coal cases in which the market dominance issue can now be resolved. These cases also present complex issues of fact and law requiring extraordinary amounts of staff time.

The reduction in the number of abandonment cases is projected based on the end of the special Conrail program under the Northeast Rail Service Act of 1981. Under that program, Conrail filed over 1,000 abandonment requests since August of 1981. These were relatively simple cases. If no offer of financial assistance was filed, the Commission was required to grant the abandonment. Only where an offer of financial assistance was filed and the parties could not agree on the terms, was the Commission required to do more than issue a ministerial decision.

The abandonment applications that are now being filed and those we anticipate are usually complex and are expected to be heavily-protested; more investigations are being instituted. The large records developed in these cases require an analysis of complex economic issues so that the Commission can properly apply the statutory test -- balancing the harm to shippers and communities against the burden of continued operation on the railroads and on interstate commerce. In addition, the trend shows an increase in the use of the financial assistance provisions, as more heavily used lines are proposed for abandonment. Increased activity in this area will require the Commission to dedicate more resources to preparation and issuance of decisions setting terms and conditions for the sale of these lines.

Although there has also been a decrease in the number of rulemaking proceedings projected by the Commission, the rulemakings that are before the Commission present complex and controversial issues, such as: whether the Commission should continue to prescribe car hire for boxcars and other equipment; how to resolve disputes between carriers and car owners regarding the allowance to be paid for non-carrier equipment; how the Commission should determine whether a railroad is revenue adequate; whether the Commission should continue to regulate demurrage; what the appropriate guidelines for determining whether a rate is reasonable for non-coal commodities and shipments made by small shippers should be; and what level of disclosure is proper for confidential contracts between railroads and shippers. These issues go to the heart of interrailroad and railroad-shipper relations and must be very carefully considered.

In summary, although the raw numbers in these case categories are projected to decrease, the complexity and sensitivity of these matters is increasing geometrically. Where it may have taken one staff day to process a Conrail abandonment to completion, it takes about 60 staff days to process an average, investigated abandonment to completion. In comparison, the amount of time required to decide a coal rate complaint compared to a petition to waive undercharges is even greater. Thus, we believe that the complexity and sensitivity of our workload justifies the staffing levels projected.

II. Motor

The motor carrier licensing workload has declined since passage of the Motor Carrier Act of 1980. However, it has not declined as rapidly or as extensively as predicted in each year's budget projections. A 10 percent decline in licensing filings was projected for each year from FY 1984 to FY 1986, but the expected declines did not occur. In fact, there was a leveling off in the number of licensing applications filed in FY 1984 and FY 1985 and a stabilization in the volume of licensing work, consistent with a general increase of activity in the motor carrier industry attributable, most likely, to a more favorable economic climate and new opportunities made available by changes in Commission policy. During this same period, the staffing level for licensing activities has been reduced almost 40 percent, from 83 FTE's in FY 1984 to 50 FTE's in FY 1986. It has been possible to reduce staff without losing the ability to meet statutory deadlines because of a decline in the rate of opposition to licensing applications and because of concurrent organizational restructuring, realignment of supervisory responsibilities, and streamlining of case processing and decisionmaking.

It is only in the last 6 months that the number of application filings has declined as anticipated. This may be due to established operators already having taken full advantage of the opportunities to expand existing service, and to prospective new entrants intially seeking the broadest range of authorities possible so that they have no need to seek additional authority. However, it also is possible that prospective new carriers are withholding filing applications because of anticipated difficulty in obtaining required liability insurance. If so, the present filing levels might be an aberration, and filings could increase to FY 1984 - FY 1985 levels upon abatement of the insurance crisis.

Should the Commission decide to allow self-insurance by motor carriers, our staff has determined that the Office of the Secretary and the Office of Proceedings will not need additional staff. The Bureau of Accounts determined that one hundred applications in a year could require an increase of four staff-years. The Office of Compliance and Consumer Assistance cannot determine the number of additional staff needed to meet this new responsibility at this time. However, existing resources will not be sufficient to accomplish the processing, reviewing, and decision writing that the new self-insurance applications will require.

SENATOR ANDREWS: Why does "other expenses" increase over the FY 1986 level?

ANSWER: The $50,000 increase in "other expenses" in FY 1987 from FY 1986 is the result of a $16,000 planned purchase of new computer equipment and $34,000 due to inflationary increases in the cost of goods and services.

SENATOR ANDREWS: How much of the travel budget is spent in conjunction with travel on rail abandonments?

ANSWER: Very little, if any, travel money will be used by the Office of Proceedings for travel related to rail abandonments. Typically, this office has not needed to travel to prepare these cases, as they are usually submitted on a written record. Where local hearings are held, travel is required by the administrative law judge in the Office of Hearings; also, travel may be undertaken by the new Office of Public Assistance to assist the community, or by the Office of Transportation Analysis to explore environmental issues.

OFFICE OF HEARINGS

SENATOR ANDREWS: Six staff-years are requested in the Office of Hearings costing $347,000. Are all these personnel administrative law judges? Provide a breakdown of personnel by position.

ANSWER: Four administrative law judge positions and two secretarial positions are planned for the Office of Hearings in FY 1987.

SENATOR ANDREWS: What constitutes other expenses for the Office of Hearings? Are any of the funds in FY 1987 for the purchase of new equipment?

ANSWER: Other expenses for the Office of Hearings are: rental of office space, $66,000; communications and utiltites, $19,000; printing and copying, $4,000; office supplies, $2,000; and $12,000 for commercial services (this includes such things as training, equipment maintenance, building repairs, and timesharing expenses). There are no funds for the purchase of new equipment.

OFFICE OF TRANSPORTATION ANALYSIS

SENATOR ANDREWS: How was (or is) the $258,000 for outside contracts spent in fiscal year 1986? Provide a description for each area and amount spent.

ANSWER: The following table provides the requested information.

FY 1986 Contract Funds
Office of Transportation Analysis

PROJECT	DESCRIPTION	OBLIGATED	ANTICIPATED BUT NOT YET OBLIGATED	REMARKS
Rail Waybill Sample	Processing of sampled rail waybills into computer file.	$75,000	---	
Supplementary Environmental Services	Provides scientific expertise not available on staff.	---	$115,000	Request for proposal in preparation
Computer Services	Provides computerized environmental science bibliographic service.	4,000	---	
Contract Rate Summary Data Entry	Keypunching rail contract data summary into computer file.	5,000	---	
Monitoring Rail Exemptions	Evaluation of impact of boxcar exemption.	---	35,000	
Bus Industry Study	Evaluation of Bus Act of 1982.	---	24,000	
		$84,000	$174,000	
		TOTAL:	$258,000	

SENATOR ANDREWS: In response to a question for the record (Senate Hearing 99-336, part 2, page 106) it was estimated that $240,000 would be spent for outside contracts. The actual 1985 figure contained in this year's justification states $165,000. What did and did not get done in FY 1985 relative to the estimate of $240,000?

ANSWER: FY 1985 contracts expended by the Office of Transportation Analysis for a total of $165,000 included Rail Waybill Sample and supplemental environmental expertise. The projects originally planned but not undertaken included Rail Exemption Monitoring, Bus Industry Studies, Food and Grocery Transportation Study, computer services, and additional supplementary environmental expertise.

SENATOR ANDREWS: That response also projected $429,000 of outside contract support in FY 1986. This budget justification shows outside contracts at $258,000. What did and did not get done relative to that original estimate?

ANSWER: In the following table, the right hand column displays the expenditures anticipated for FY 1986 when the FY 1987 budget justification was submitted. Reductions from previous estimates were made both for programmatic and efficiency reasons.

FY 1986 PROJECT	FY 1985 HEARING RESPONSE	CHANGE	FY 1986 OBLIGATED OR ANTICIPATED
Rail Waybill Sample	$ 75,000	$ 0	$ 75,000
Computer Services	9,000	-5,000	4,000
Monitoring Rail Services Exemptions	35,000	0	35,000
Bus Industry Studies	25,000	-1,000	24,000
Food & Grocery Transportation study	20,000	-20,000	0
Supplementary Environmental Services	100,000	+15,000	115,000
Merger Acquisition Monitoring	75,000	-75,000	0
Supplemental Research & Analysis Services	90,000	-90,000	0
Contract Rate Summary Data Entry	-0-	+5,000	5,000
	$429,000	-$171,000	$258,000

SENATOR ANDREWS: Were funds expended for outside contracts in the merger/acquisition monitoring area in 1986? If so, how much? Are funds in this area requested for 1987?

ANSWER: No FY 1986 funds have been expended for outside contracts in the merger/acquisition area. No funds are requested for this area for FY 1987.

SENATOR ANDREWS: What important activites were curtailed or delayed because of the restriction on travel funds in FY 1985?

ANSWER: Office of Transportation Analysis staff was unable to perform needed on-site environmental data collection in the Santa Fe/Southern Pacific merger application. Direct consequences are our current higher-level staff efforts and expenditures to satisfy EPA's criticisms of our work on noise, vibration, and safety impacts in certain corridors.

Office staff was unable to participate in motor and rail carrier rate bureau compliance surveys.

SENATOR ANDREWS: List the studies and analyses completed by the office in fiscal year 1985, estimated for fiscal year 1986 and planned for fiscal year 1987. Which of these are statutorily required?

ANSWER: Those studies or analyses which are statutorily required are designated by an asterisk (*) in the following lists.

Studies and Analyses Completed in FY 1985

Bus Industry Study

Intercity Bus Terminal Study*

Finance Docket No. 30300, CSX Corporation - Control - American Commercial Lines, Inc., economic analysis*

Ex Parte No. 347 (Sub-No. 1), Coal Rate Guidelines - Nationwide, maximum rate standards

Finance Docket No. 28640, GTC/MILW Consolidation - CNW-MILW Consolidation, economic analysis

Information on rail surcharge activity for Annual Report to Congress*

Ex Parte No. 290 (Sub-No. 4), Railroad Cost Recovery Procedures, productivity adjustment

Ex Parte No. 290 (Sub-No. 2), Railroad Cost Recovery Procedures, rate adjustment mechanism

Ex Parte No. 299, Cost Recovery Percentage, railroad rate index

Ex Parte No. 393 (Sub-No. 1), Standards for Revenue Adequacy

Ex Parte No. 444, Electronic Filing of Tariffs

Finance Docket No. 30500, Southern Pacific Corp. - Control - Southern Pacific Transportation Co. - Merger - The Atchison, Topeka and Santa Fe Railway Co. and Southern Pacific Transportation Co., economic analysis

Ex Parte No. MC-172, Withdrawal of Antitrust Immunity for Collective Ratemaking on Shipments

Ex Parte No. 387, Railroad Transportation Contract, date disclosure rules*

Listing of Female and Minority Owned Motor Carriers

Study of the Estimated Traffic Diversion Resulting from the Acquisition of the Consolidated Railroad Corporation by Norfolk Southern Corporation

Study of the Viability of Guilford Transportation Industries, Inc. and Pittsburgh and Lake Erie Railroad Company Subsequent to Acquisition of Conrail By Norfolk Southern Corporation

Northwestern Pacific Abandonment, Environmental Impact Statement*

No. AB-8 (Sub-No. 8), Denver & Rio Grande Western Abandonment, environmental assessment*

Ex Parte No. 347 (Sub-No. 1), Environmental Impact Statement*

Finance Docket No. 30482, Florida West Coast, construction environmental assessment*

Finance Docket No. 30700, Chicago & North Western, construction environmental assessment*

International Center for Aerospace Sciences and Technology & Western, construction environmental assessment*

Finance Docket No. 30186, Tongue River Construction, Environmental Impact Statement*

Studies and Analyses Estimated For FY 1986

Railroad TOFC/COFC Monitoring Study

Motor Carrier of Property Monitoring Report

Motor Carriers of Passengers Monitoring Report

Household Goods Industry Study

Finance Docket No. 38676, Changes in Routing Provisions - Conrail

Finance Docket No. 30400, Southern Pacific Central - Control - Southern Pacific Transportation Co., - Merger - The Atchison, Topeka and Santa Fe Railway Co. and Southern Pacific Transportation Co., economic analysis*

Finance Docket No. 39021, Mid-Tec Paper Corp., et. al. vs. Chicago & Northwestern Transportation Co., competitive access

Finance Docket No. 39176 (Sub-No. 2), Soo Line Railroad Co. vs. Chicago & Northwestern Transportation Co., economic analysis

Finance Docket No. 38084S, International Minerals and Chemicals Corp. vs. Burlington Northern, Inc., et. al., market dominance

Finance Docket No. 38239S, Amstar Corporation vs. The Alabama Great Southern Railroad Co., et al., market dominance

Study of Bus Service to Small Communities since the Bus Regulatory Reform Act of 1982

An Assessment of International Joint Rates Between Railroads and Ocean Carriers

Ex Parte No. 346 (Sub-No. 19), Boxcar Car Hire and Car Service Regulation

Ex Parte No. 399, Cost Recovery Percentages, railroad rates index

Ex Parte No. 462, Exemption of Demurrage from Regulation

Ex Parte No. 334 (Sub-No. 6), Review of Car Hire Flexibility

Finance Docket No. 30400, Santa Fe/Southern Pacific Merge, Environmental Assessment*

Studies and Analysis Planned for FY 1987

Motor Carrier Monitoring Report - Truck

Motor Carrier Monitoring Report - Bus

Bus Monitoring Study -- Assessing the Impacts of the Bus Regulatory Reform Act.

Assessment of the Impacts of Rail Exemption on Carriers and Shippers

At least one major rail merger proposal is anticipated in FY 1987, economic and environmental analysis*

Analyze proposals to exempt rail traffic from regulation according to the provisions of the Staggers Rail Act

Case-by-case analysis of market dominance dockets

Comprehensive environmental analyses, number depending upon rail applications filed.

BUREAU OF ACCOUNTS

SENATOR ANDREWS: How is the Commission able to reduce the number of personnel in the rail workload area when the projected number of cases and reports do not appear to be decreasing?

ANSWER: The reduction in staff-years for rail workload is primarily the result of the Commission's decision in Ex Parte No. 460, Certification of Railroad Annual Report R-1 by Independent Accountant. Under this new procedure, the Bureau's field staff will be abolished; however, rail audits will still be performed by public accountants under the guidance and oversight of the Bureau's audit staff in headquarters.

The Bureau is also being reorganized to reduce overhead positions and make operations more efficient. Sections are being consolidated from five to three, and one level of supervision is being eliminated.

SENATOR ANDREWS: What resources and amount of resources of the Bureau of Accounts will be used in FY 1987 for work on the Railroad Accounting Principles Board?

ANSWER: We have estimated that three staff-years will be devoted to Board-related work in FY 1987. This work will be necessary to implement the final principles issued by the Board and will primarily involve changes to the Uniform System of Accounts, Annual and Quarterly Reports, and the Uniform Railroad Costing System.

SENATOR ANDREWS: What resources of the Bureau are used for developing the annual cost of capital and revenue adequacy determinations for railroads?

ANSWER: The Bureau expended approximately 3 staff-years of effort in the most recent cost of capital and revenue adequacy determination proceedings.

The Ex Parte No. 458 cost of capital proceeding consumed approximately one-half staff-year of effort. The bulk of this time was spent reviewing comments submitted by the public and preparing a draft decision for Commission consideration. The amount of staff effort spent in the annual cost of capital proceeding is subject to change, depending on the volume and nature of the comments received from the public. In years past, the Bureau has devoted as much as one and one-half staff-years of effort for the cost of capital proceeding.

The Ex Parte No. 457 revenue adequacy determination proceeding consumed approximately two and one-half years of staff effort. The bulk of the time was spent gathering financial data for use in the preparation of a draft decision, including information on predecessor railroad original costs and current costs.

BUREAU OF TRAFFIC

SENATOR ANDREWS: The category "other expenses" for the Bureau of Traffic constitutes approximately 25 percent of the total requested funding level. Provide a description and dollar amount of the Bureau's cost for "other expenses".

ANSWER: The following table displays the requested information regarding "other expenses" for the Bureau of Traffic.

Other Expenses	Amount
Rental of office space	$490,000
Communications and utilities	251,000
Printing and copying	53,000
Commercial services	68,000
Supplies and materials	20,000
Total	$882,000

SENATOR ANDREWS: Of the funds requested, how much is for new furniture and equipment.

ANSWER: No funds are being requested for new furniture and equipment for the Bureau of Traffic.

SENATOR ANDREWS: How are training expenses incurred?

ANSWER: When employees are appointed to supervisory/managerial positions, it is important that they have the benefit of supervisory/managerial training in order to perform effectively. The Office of Personnel Management recommends a minimum of 80 hours of such training for newly appointed supervisors. During the past two years, there have been a number of such appointments in the Bureau of Traffic. Fiscal Year 1985 and 1986 budget limitations caused postponement of such training except for some limited in-house courses. Training expenses incurred will be limited to such recently-appointed supervisors. It will consist of local or nearby Washington area federal government courses to hold down the cost of the training and associated travel.

OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE

SENATOR ANDREWS: Ninety percent of 1,000 final investigations were in high emphasis enforcement areas. Provide the number in each of the eleven high emphasis areas.

ANSWER: Updated end-of-year figures show that in FY 1985, a total of 1,260 investigations were completed. Of these, 95 percent were in high emphasis areas. Set forth below is a breakdown of those investigations.

SUMMARY OF INVESTIGATIONS IN HIGH EMPHASIS ENFORCEMENT CATEGORIES

	FY 1985
Antitrust	17
Ethics	19
Fitness/safety	32
Household goods	15
Illegal lumping	10
Insurance	912
Kickbacks	11
Overcharges/duplicate payments/C.O.D. claims	47
Owner-operator problems	75
Unauthorized passenger carrier operations	58
Weight bumping	2
TOTAL	1,198

SENATOR ANDREWS: Eighty-five percent of the 725 litigation cases were in high emphasis areas. Provide the number of cases in each of the eleven high emphasis areas.

ANSWER: Updated end-of-year figures show that a total of 954 litigation cases were completed, 89 percent of which were in high emphasis areas. Set forth below is a breakdown of those litigation cases.

SUMMARY OF LITIGATION CASES IN HIGH EMPHASIS ENFORCEMENT CATEGORIES

	FY 1985
Antitrust	34
Ethics	21
Fitness/safety	24
Household goods	8
Illegal lumping	2
Insurance	592
Kickbacks	14
Overcharges/duplicate payments/C.O.D. claims	46
Owner-operator problems	54
Unauthorized passenger carrier operations	55
Weight bumping	1
TOTAL	851

SENATOR ANDREWS: In 1985 approximately 616 cases were in the high emphasis area. What is the estimate for FY 1986?

ANSWER: Based on our experience to date, we estimate the number of enforcement cases concentrated in high emphasis areas in FY 1986 will be 1,108. The increase primarily relates to cases involving public liability and cargo insurance. While these cases significantly increase the projected case totals, they are generally less time consuming than other types of cases and can be handled within the proposed staff allocation for compliance and enforcement.

SENATOR ANDREWS: Of the total investigations approximately 62 percent resulted in litigation in high emphasis areas. What is the estimated percentage for fiscal years 1986 and 1987?

ANSWER: Based on our experience to date, we estimate that in FY 1986 95 percent of investigations completed and 98 percent of all litigative cases will be in high emphasis areas. In 1987, we believe that we will experience similar percentages of high emphasis cases. We attribute these substantial increases in the high emphasis areas to the increase in the number of insurance cases and the relatively prompt resolution of such cases, particularly by use of the consent agreement.

SENATOR ANDREWS: Does the level of personnel drop below the post Gramm-Rudman-Hollings level of 246 for this office in fiscal year 1986?

ANSWER: The Office of Compliance and Consumer Assistance began FY 1986 with 251 on-board employees, and staffing has remained relatively level. The field reorganization is planned to occur in August, at which time employment will be reduced in line with the FY 1987 level. It is expected that, as a result of this action, the Office will use a total of 246 staff-years during FY 1986.

SENATOR ANDREWS: If the Commission does expect the level to drop below the 246 level, when will the Commission send a reprogramming request to the Committee necessary to effect this change?

ANSWER: The FY 1986 employment pattern of the Office of Compliance and Consumer Assistance is expected to result in use of 246 staff-years, even though on-board strength will be lower at the end of the fiscal year. Since usage of the full 246 staff-years is projected, we have no plans to request reprogramming.

SENATOR ANDREWS: What were the criteria used for selection of these offices?

ANSWER: The selection of the 3 regional and 19 field offices was based on the geographic proximity of the office to major transportation centers, on the current and estimated workload of each office, the geographic balance between the offices, and the number of employees and size of the present offices. The offices were not considered in isolation. Rather, selections were based on each field office's contribution to an alternative field configuration. The resulting selections represent what the Commission views as a reasonable and streamlined organization, adequately staffed to serve the public nationwide in a cost-effective and operationally efficient manner.

SENATOR ANDREWS: Did each of these criterion have equal weight?

ANSWER: No empirical process was used in evaluating the criteria; consideration was given to each factor but they were not mathematically accorded equal weight. A significant level of objective judgment was exercised in applying the criteria to each location so that the structure, taken as a whole, would produce the most efficient and steamlined system.

SENATOR ANDREWS: What is the amount of savings expected from this reorganization in fiscal years 1985, 1986, and 1987?

ANSWER: The reorganization of the Office of Compliance and Consumer Assistance's field structure will not take place until later this year; therefore, no savings were realized in FY 1985. Since the personnel actions associated with the reorganization will be implemented late in FY 1986, only about $200,000 savings are projected for the year. (Other savings that could not have been achieved but for the planned reorganization have been reflected in the reprogramming actions the Commission requested in order to implement the Balanced Budget and Emergency Deficit Control Act of 1985.) In FY 1987, the savings will be approximately $1.7 million.

SENATOR ANDREWS: Are these savings net of severance and terminal pay settlements?

ANSWER: No, this amount represents the difference between the annual cost of operating in FY 1987 under the new organization and the annual cost of operating in FY 1987 under the existing structure. The cost of severance pay, terminal leave, and relocations will significantly offset the $1.7 million savings during FY 1987.

SENATOR ANDREWS: What are the expected personnel costs associated with this reorganization for fiscal years 1985, 1986, and 1987, including the costs associated with terminal leave, severance pay, unemployment compensation, and relocation, for the Office of Compliance and Consumer Assistance (OCCA)?

ANSWER: Personnel costs associated with the OCCA reorganization are included in the following table:

Cost Item	FY 1985	FY 1986	FY 1987
Terminal leave	$ -	$ 35,000	$ -
Severance pay	-	72,000	340,000
Unemployment compensation	-	36,000	104,000
Relocation expenses	-	271,000	180,000
Total	$ -	$414,000	$624,000

SENATOR ANDREWS: How much of "Other Expenses" is requested for new equipment of furniture?

ANSWER: None of "Other Expenses" requested for the Office of Compliance and Consumer Assistance are for new equipment or furniture.

MANAGING DIRECTOR

SENATOR ANDREWS: How much of "other expenses" is requested for new equipment or furniture?

ANSWER: Of the $1,367,000 shown for other expenses, $26,000 is for new furniture and non-ADP equipment. However, this amount is not reserved for purchases to be made only for the Managing Director's Office; it will be used to purchase furniture or equipment to replace existing units which become unserviceable or provide for previously unanticipated requirements wherever needed within the Commission.

QUESTIONS SUBMITTED BY SENATOR ABDNOR

SENATOR ABDNOR: Why does the Administration want the ICC dismantled?

ANSWER: The Administration supports deregulation of motor carriers, freight forwarders, and interstate water carriers and the continued regulation of railroads. Assuming passage of these legislative proposals, the ICC's functions would be limited to rail regulation and certain other functions. The Administration's proposal as detailed in the President's Budget finds that those residual rail regulatory functions could best be carried out by other agencies.

SENATOR ABDNOR: Where would independent truckers go for complaints on unfair competition?

ANSWER: It is unclear at this time the extent of formal protection that would be maintained by law or which agency would be responsible. Those details should be developed in the formal sunset proposal.

SENATOR ABDNOR: How would railroad abandonments be handled?

ANSWER: It is the Commission's understanding that railroad regulation would not be changed and that rail abandonments would be handled by the Department of Transportation.

SENATOR ABDNOR: What is the Administration's reasoning for eliminating the ICC?

ANSWER: The Commission understands that the Administration believes that after passage of truck, water carrier and surface freight forwarder deregulation legislation the residual ICC rail and other functions can more efficiently be carried out by other government agencies.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

SENATOR D'AMATO: When will legislation be submitted to Congress to effect the proposed sunset of the ICC at the close of FY 1986?

ANSWER: The Commission does not know when the sunset legislation will be submitted by the Administration.

SENATOR D'AMATO: After the proposed sunset of the ICC certain residual functions are to be transferred to the Department of Transportation. What are those functions? How much funding has been requested to carry out these functions? How does the proposed level of funding for transferred activities compare to the funding provided for the same duties when performed by the ICC? Is the requested funding level adequate to enable DOT to carry out these functions?

ANSWER: The remaining functions will be rail regulation activities and regulation of motor carrier safety and insurance, bus preemption of States, and carriage by foreign motor carriers. The Administration has requested $11.2 million to perform these functions, after motor carrier deregulation and ICC sunset is enacted. This compares to an estimate of $18.7 million in the ICC budget for the rail regulation program. Frankly, I am puzzled as to how these complex rail functions could be performed with significantly fewer staff or lower funding. It is difficult to believe that "economies of scale" could account for a savings of this magnitude.

QUESTIONS SUBMITTED BY SENATOR CHILES

SENATOR CHILES: It is current Federal rail transportation policy that, to the maximum extent possible, competition and not regulation establish reasonable rail rates. Does the ICC actively encourage competition between or among railroads? Is this a high priority? What has the ICC done to encourage competition?

ANSWER: Consistent with Federal rail transportation policy, the ICC has actively encouraged competition between and among railroads through our decisions implementing the pro-competitive Staggers Act. We consider the encouragement of competition between railroads to be of the highest priority and to be at the heart of the policy embodied in the Staggers Act. Our rulemakings and decisions over the last five years with respect to all modes of transportation have promoted innovative competitive service, heightening competition between railroads with respect to both captive and competitive traffic. With the deregulation of TOFC/COFC, the imposition of procompetitive restrictions on rail rate bureaus, and the more efficient and coordinated intermodal use of trucks and rail, the reach of railroads is extended into the exclusive territories of other rail carriers and intra-railroad competition is enhanced.

While the ICC does not actively interfere without due cause in free markets by imposing new competitors, we do consider the need for rail access to the lines of other railroad systems upon complaint. This is an important area of Commission concern.

In addition, the Commission has used a number of the statutory provisions available to it to increase intramodal competition and this function is taken seriously. For example, more and more trackage rights agreements are being entered into voluntarily, thus offering shippers greater service options and/or better service. To encourage these agreements, in Ex Parte No. 282 (Sub-No. 9), Rail Consolidation Procedures--Trackage Rights Exemption, we used our exemption authority to streamline this process and eliminate regulatory delay.

In the joint rates/reciprocal switching areas, in Ex Parte No. 445 (Sub-No. 1), Intramodal Rail Competition, we recently adopted rules negotiated between various shipper groups and the Association of American Railroads to govern our review of these issues. Since enactment of the Staggers Act, we have granted extensive trackage rights in merger proceedings. In other adjudications and when warranted by the facts, we have disapproved joint rate cancellations, and ordered both reciprocal switching and joint terminal use.

We believe our implementation of the contract provisions of the Staggers Act (49 U.S.C. 10713) has also been extremely effective in promoting competition among carriers. In this regard, we also note that our prior decision to approve the addition of a new competitor (C&NW) in the Powder River Basin and our more recent decision to allow the construction of an extension of the C&NW in the Powder River Basin produced a number of new coal contracts for that carrier and increased competition for these coal movements between the two railroads serving the Powder River Basin and other rail rates from other geographic sources of coal that compete with the Powder River Basin.

SENATOR CHILES: Closer to home, there have been some changes in Florida's rail competition over the years. In 1963, the

Atlantic Coastline and the Seaboard Line railroads merged, forming the Seaboard Coastline. At that time, the ICC acknowledged the reduction in competition, but assured that shippers would be protected because the ICC had regulations to protect shippers.

Since that time, however, we have had the Staggers Act in 1980 which largely deregulated the railroads.

For a while, captive shippers in Florida had a margin of bargaining power due to the rating arrangement over the Jacksonville gateway, which provided competition from Jacksonville to points in the Midwest. Thus, while the shipment from the Bone Valley in Florida to Jacksonville was captive to the SCL, there was competition from Jacksonville on because of the Southern Railroad.

However, in 1982, the ICC decided to cancel the gateway at Jacksonville. This took from the shippers any real leverage to negotiate with the sole railroad serving the Bone Valley.

It seems to me that this action destroyed competition for those shippers.

Can you explain why the ICC took this action and what it has done since to allow competition or to protect captive shippers in this area?

ANSWER: The Commission did not cancel the Jacksonville gateway. What it did in No. 38742, Interchange Provisions at Jacksonville, FL, SCL and SRS, 365 I.C.C. 905 (1982), was to interpret an earlier ruling authorizing removal of a condition originally imposed in the 1963 Atlantic Coastline - Seaboard Air Line railroad merger. That condition directed SCL to maintain joint rates through the new Jacksonville gateway at levels no higher than single line rates or other joint line rates through that or any other gateway. The effect of the 1982 decision was to require SCL to establish new joint routes with Southern through that gateway where none previously existed. In support of removal of the condition, SCL had argued that the condition had the effect of creating some circuitous and inefficient joint routes, and allowed Southern to short haul the SCL on SCL local station traffic.

In 1982, SCL restricted some routings and rates through Jacksonville. (It was estimated to cover a maximum of 1500 out of 10,716 carloads of traffic.) The proposal did not apply to commodity rates, nor did it affect joint rates on routes via SCL-Southern junctions north of Jacksonville. It was intended to balance more fairly the handling of local traffic between the two carriers.

In reviewing the proposal, the Commission found that it would produce routings which were substantially less circuitous and therefore would be more efficient. This is one of the primary statutory criteria. See 49 U.S.C. 10705(e). Shipper protestants (including the Fertilizer Institute) argued that the proposal would destroy essential routing leverage of captive shippers. Yet, the Commission found no evidence of poorer service or abuse of market power, noting as to the latter that alternative routes would continue to exert downward competitive pressure on rates.

Since that decision, controversy involving Bone Valley phosphate movements has been minimal. Our records show a total of 12 cases involving phosphate since passage of the Staggers Act, most of which address Bone Valley movements. All of those cases were dismissed at the complainant's request; the last two were dismissed in November 1985. In the past few years, we have had only one protested rate proposal inolving Florida phosphate and it included many intrastate rates over which we had no jurisdiction. Thus, we are somewhat surprised that Bone Valley shippers are, apparently, dissatisfied. Moreover, our past record shows that we have been sympathetic to their transportation needs. In 1979, in AB-55 (Sub-No. 13), we required, as a condition to a Seaboard abandonment, that it commit $5.5 million to improving its Rockport transloading facility at Tampa Range, Fl.

SENATOR CHILES: Should railroads be supported by captive traffic or should they be competing with each other in the free market like trucks, barges and airplanes?

It is my understanding that the ICC has taken the position that the railroads would not price as simple monopolies because it is not in the best interest of the railroads to raise rates so high as to drive shippers out of business. Apparently, some think this is sufficient protection for captive shippers.

ANSWER: In order to ensure continued provision of rail service and the reinvestment in rail facilities and equipment, railroad revenue and earnings must be supported by railroad captive and competitive traffic. In the case of rail traffic that has effective competition from other modes or sources of competition, while rates charged usually reflect a contribution to overhead they may not totally cover overhead expenses. Rail captive traffic with no effective alternative can be expected to make greater contributions to overhead costs in terms of the rates they are charged. What the Staggers Act and the Commission's Ex Parte No. 347 (Sub-No. 1) standards have in common is an acknowledgment that railroad pricing of all traffic must take demand into consideration if the end result is to be an efficient transportation system. With respect to captive shippers, the Commission seeks to let demand set a competitive price but ensure that the ensuing rate is reasonable.

SENATOR CHILES: In the Bone Valley in Florida, phosphate plants are closing down or operating at far less than capacity - [e.g.], Brewster Phosphates, CF Industries, Gardinier, and IMC - New Wales is operating at 64% of capacity.]

I understand that the same problem exists in Carlsbad, New Mexico, where the Potash Corporation of America has shut down.

How has the ICC protected these firms?

ANSWER: The Interstate Commerce Act provides avenues for shipper relief that assume injured parties will come forward and seek redress. Absent a complaint, we do not know the reasons for excess capacity at the plants and do not know whether there is a problem with the railroads or with more general marketplace conditions. All phosphate cases filed since the Staggers Act have been closed at the parties' request. Thus, further ICC action does not appear necessary. It is, however, available upon complaint pursuant to available statutory remedies.

SENATOR CHILES: Don't you think that there is a need for some protection for captive shippers?

ANSWER: There is need for protection of rail captive shippers. However, the provisions of the Staggers Act and the Commission's implementation of rules with respect to captive shippers adequately provide that protection.

SENATOR CHILES: I understand that historically the railroads, due to their regulated nature, have not been subject to the same marketplace controls, such as the antitrust laws, as other industries.

Given the essentially deregulgated nature of the railroads and the absence of active ICC protection of captive shippers, don't you think we should require trackage rights or subject the railroads to some sort of antimonopoly scrutiny, under the antitrust laws?

ANSWER: Existing law and the Commission's rules and regulations adequately protect captive shippers. Additional legislation modifying the antitrust laws for railroads is not needed at this time.

SENATOR CHILES: On July 25, 1985, a group of major shippers (e.g., Amoco, Chicago Board of Trade, Farmland Industries, International Minerals and Chemical) filed a petition with the ICC seeking a rulemaking on the issue of proportional rates. This group, petitioned in the alternative, for the ICC to promote legislation in the public interest to allow a shipper seeking competition or a railroad offering competitive service, to request a proportional rate from a shipping point to a junction point. It is my understanding that this petition is in Ex Parte 445. Are you aware of this petition? Why hasn't the ICC acted on it? Do you think a nationwide requirement for proportional rate is too competitive? Do you know of any proposal to produce better competition?

ANSWER: This petition was filed in Ex Parte No. 445 (Sub-No. 1), Intramodal Rail Competition, along with a number of other alternative proposals. The issue of proportional rates was addressed in the decision, but this particular proposal was not formally acted on. In discussing the overall issue, the Commission stated, as relevant to your questions:

> While we have the power and authority to prescribe proportional rates, the issue we face here is whether we should adopt a rule that would require us to prescribe a proportional rate under certain circumstances. We think doing so would be undesirable at this time. In this proceeding, we are adopting a number of significant changes that should prove helpful to shippers by enhancing competitive access. We think it advisable to assess the effectiveness of these changes before making additional modifications to our rules that would hamper our flexibility to handle proportional rates issues, when raised, on a case-by-case basis....

> We also are concerned about how a proportional rates pricing system would affect railroad rates in general, particularly in light of our application of the theory of differential pricing.... and whether such an approach would provide the relief the parties seek is not free from doubt.
>
> ....The fact that we can do so is already clearly established, and the questions of whether and how we should do so ... will be best resolved within the framework of case-by-case analysis, in which we can focus on the specific factual circumstances of actual situations.

Thus, the Commission has indicated some concern about a proportional rate system, but it has not yet ruled on this specific petition. Whether a nationwide proportional rates system would produce "better competition" has not been determined. This is not, in any event, the only question that such a scheme raises. It has been argued that requiring proportional rates industry-wide would interfere with the railroad's need to have the price via a particular route reflect demand on that route for that service, and that such a broad-based intrusion would contradict the Staggers Act intent that we regulate only where market forces do not do so effectively. Therefore, the Commission chose to adopt the NITL/CMA/AAR agreement initially (which did not contain proportional rate provisions) and monitor its effect, before considering other, more drastic alternatives.

SENATOR CHILES: Do you understand this agreement to be between the railroads and captive shippers? If so, what evidence do you have that these shippers are captive?

ANSWER: No, not entirely. The NITL represents a broad cross-section of U.S. shippers -- small and large. Some are captive. Others clearly have effective transportation competition. The Ex Parte No. 445 (Sub-No. 1) rules include an analysis somewhat akin to a market dominance determination, as they also address the question of "effective competition."

QUESTIONS SUBMITTED BY SENATOR BYRD

SENATOR BYRD: Mrs. Gradison, I am in receipt of a letter dated March 24, 1986, signed by Mr. Alexander H. Jordan, Director, Office of Legislation and Governmental Affairs, advising that the Office of Compliance and Consumer Assistance at Wheeling, West Virginia, will be closed by August 1, 1986.

The Fiscal Year 1986 Continuing Resolution provided 257 staff-years and $14,400,000 for the Office of Compliance and Consumer Assistance. The statement of the managers accompanying the conference report on that resolution specifically noted that staffing level and dollar amount and stated as follows:

> The conferees expect the Interstate Commerce Commission to use normal reprogramming procedures should it propose to deviate in any way from the staffing

allocations or by more than five percent from the funding allocations listed above.

According to your budget justification, you plan to reduce staffing in that office to 218 staff-years in FY 1987. Yet, in the March 24, 1986, letter, I am advised that 33 field offices will be closed before the end of FY 1986.

In view of the direction provided by the Congress, why are you planning to close 33 field offices and further reduce staffing prior to the end of FY 1986?

ANSWER: The FY 1986 Continuing Resolution provided $14,400,000 and 257 staff-years for the Office of Compliance and Consumer Assistance. These funds and staff-years were subsequently reduced under provisions of Gramm-Rudman-Hollings.

As a result, $13,952,000 and 246 staff-years are available for the Office of Compliance and Consumer Assistance (OCCA) in FY 1986. OCCA began the year with 251 employees on-board and staffing has remained relatively level. When the field reorganization is implemented in August, employment will be reduced in line with the proposed FY 1987 level of 218 staff-years. We project that the Office will use 246 staff-years and approximately $13.9 million during FY 1986, consistent with the resources available after the Gramm-Rudman-Hollings reduction.

The timing of the reorganization was planned to coincide with congressional action on the FY 1987 budget and to create significant resource savings for FY 1987.

SENATOR BYRD: Have you submitted any reprogramming requests for the Office of Compliance and Consumer Assistance?

ANSWER: The resource levels provided for this Office in the 1986 Continuing Resolution (P.L. 99-190) were reduced 11 staff-years and $591,000 under provisons of Gramm-Rudman-Hollings. The only additional adjustment affecting this Office was an increase of $143,000 after the Gramm-Rudman-Hollings reduction. Since this change was within the 5-percent flexibility permitted by the Conference Report on P.L. 99-190, no specific reprogramming request was made for this office. However, the Commission submitted a reprogramming request dated February 5, 1986, which affected several other Bureaus and Offices.

SENATOR BYRD: Inasmuch as the Congress specifically provided 257 staff-years for the Office of Compliance and Consumer Assistance in Fiscal Year 1986, do you not think that perhaps you are preempting the prerogatives of this Committee and the Congress by moving ahead to reduce the staff-years prior to FY 1987?

ANSWER: Since the Commission's plans currently anticipate use of FY 1986 funding and staff-year levels consistent with the post-Gramm-Rudman-Hollings levels, we do not believe we are preempting the prerogatives of the Committee or Congress. Further, we have deliberately delayed implementation of the reorganization until very late in the fiscal year to allow time for the Congress to consider and approve our FY 1987 budget request before we initiate the implementing actions.

SEPARATE EXPRESSION OF VICE CHAIRMAN SIMMONS

I have previously expressed my strong disagreement with the proposed closings of Commission field offices. These closings would limit the public's access to the Commission and the

Commission's ability to monitor transportation conditions. My concerns have been reinforced by the rapidly developing insurance crisis now facing motor carriers. This situation, which had not yet reached crisis proportions when the field office closings were first proposed, has led to calls for prompt Commission action from the industry itself and from various Members of Congress. We are now considering changes in our self-insurance regulations as one response to the problem. Whatever actions the Commission takes, however, must be accompanied by effective oversight to ensure continued protection of the public. Additional resources beyond those sought in our FY'87 Budget submission will be necessary to provide this oversight.

The closing of field offices will seriously hamper the Commission's ability to implement programs designed to ameliorate the impact of escalating insurance rates. In my view, any meaningful response will require additional manpower both in the field and at headquarters.

SEPARATE EXPRESSION OF COMMISSIONER LAMBOLEY

I concur in the matters of fact set out in responses to the questions of the Subcommittee Members.

However, to the extent that those responses differ from testimony and written answers I have submitted to the Senate Commerce Committee during recent confirmation hearings on similar subjects, I reaffirm those statements to that Committee as appropriate responses.

In addition, I wish to comment on certain issues as follows:

1. ICC Sunset/Alternatives. I am reluctant to become involved in the debate over the sunset of the ICC, since doing so as a Commissioner tends to undermine employee morale and the credibility of this agency's handling of its responsibilities. However, it is appropriate to point out that I differ with the views expressed in the answers regarding sunset.

Further, I would observe that there may be merit in considering an independent, national transportation agency, not unlike that proposed in the Transportation Improvement Act of 1983 (S. 48) introduced by Senator Packwood in January 1983.

2. Revenue Adequacy. The Commission is squarely on record as expressing concerns for current revenue adequacy standards and noting its intention to broadly re-examine those standards, including cost of capital, by notice shortly.

3. Disclosure/Discovery. In several cases I have expressed the views that the Commission's disclosure and discovery rules are too restrictive.

4. Competitive Access/Captive Shipper. Issues raised under these topics are complex. Current Commission policy may not be "clear", and is best characterized as "developing."

5. Costs incurred by Parties in Proceedings before Commission. Agencies, as well as parties, may lose time and cost sensitivities. Lacking sufficient evidence for conclusions, time and costs involved in agency proceedings should be closely monitored with the view toward reducing both.

6. Small Shipper/Small Community/Outreach Issues. In the past, the Office of Special Counsel, the Small Business Assistance Office and the Office of Compliance and Consumer Assistance all provided important and necessary consumer assistance and outreach. In reorganization those missions should not be diminished. Closure of field and regional offices may, however, impact those activities.

It is imperative that the Commission not unduly curtail outreach functions, particularly in light of the escalating crisis involving liability insurance.

7. Data Collection. For a variety of reasons related to budget resources, paperwork reduction and the like, data collection by government agencies has been reduced. The ICC is no different.

Notwithstanding new technologies, there is concern that a sufficient informational data base be maintained not only as required to carry out an agency's responsibilities, but for Congressional and public purposes as well.

8. Commission Reorganization. Public outreach is an essential Commission function. In terms of simple cost/benefit analysis, it is questionable whether eliminating field offices and staff presently has merit. This has been underscored by the current insurance crisis, the dimension and duration of which was not anticipated nor were the necessary staff demands.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF JIM BURNLEY, DEPUTY SECRETARY OF TRANSPORTATION

ACCOMPANIED BY RAYMOND A. KARAM, DEPUTY ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

BUDGET REQUEST

Senator ANDREWS. We will now hear from the Deputy Secretary of Transportation on the departmental budget, Mr. Jim Burnley.

Secretary Burnley, we have your statement. We would be glad to have you summarize it in any way you wish and we could get to the questions.

OPENING STATEMENT

Mr. BURNLEY. All right, sir. I will do just a brief summary, if I may, on the highlights.

I have with me this morning Deputy Assistant Secretary Ray Karam from our Budget and Programs Office.

Mr. Chairman, Senator Chiles, I am pleased to have the opportunity to appear before your committee to discuss the fiscal year 1987 budget request for the Office of the Secretary.

We are requesting an appropriation of $56.5 million for salaries and expenses for the Office of the Secretary. There is no fiscal year 1987 appropriation request for payments to air carriers, nor is there a request for a separate transportation planning, research, and development appropriation.

Excluding cost items that are uncontrollable or required to carry out the new functions assigned to DOT by statute, the fiscal year 1987 combined salaries and expenses and transportation planning, research, and development appropriation is a zero growth request.

Cost items that are uncontrollable include an increase by the General Services Administration for building space rental and normal within-grade increases. Our responses to new congressional manadates include R&D funding for the Office of Commercial Space Transportation and the automation of the tariff filing functions transferred to the Department from the CAB.

We have worked hard over the past several years to achieve management savings in OST. For example, excluding personnel and positions performing functions transferred from the CAB, the total staffing request for the Office of the Secretary in fiscal year 1987 is actually more than 100 full-time equivalent employees below the level we requested for comparable items for fiscal year 1985.

The most significant increase in research and development activities is $1.45 million in the Office of Commercial Space Transportation. This office, as you know, was established in 1984 within the Office of the Secretary to encourage and promote commercial expendable launch vehicle activities by private sector companies.

Also, within the salaries and expenses portion of the funding for this office, we are requesting 11 positions, which is an increase of two from fiscal year 1986. Both of these requested increases are necessary to carry out our regulatory, safety, environmental, licensing, and policy responsibilities with regard to commercial space.

The positions acquired by DOT at the end of the first quarter of fiscal year 1985 through the transfer of functions from the CAB have been merged into OST and are funded for the first time for a full year in 1986. Our 1987 request for salaries and expenses proposes to continue funding the transferred positions except for those associated with the Essential Air Service Program which we propose to terminate at the end of this fiscal year.

The workload added to the Department by the CAB transfer continues to grow, particularly in the areas of consumer complaints and merger cases, but without any increase in positions. As you know, the Essential Air Service Program was created by Congress in 1978 as a 10-year program to subsidize air service to certain small communities. We are proposing to move that termination date up by 2 years.

Many of the affected communities have been served by expanded new commuter class air service without reliance on the EAS Program, and 75 percent of those still receiving subsidies under the program are located within reasonable driving distance of alternative air transportation. We therefore believe that this program has served its purpose.

As you have just been discussing with the Chairman of the ICC, legislation is being developed by the Secretary of Transportation to sunset the ICC at the end of this fiscal year. The proposed legislation would transfer virtually all remaining jurisdiction for regulation of railroad freight rates, services, practices, and abandonments to DOT and would transfer rail antitrust matters to the Department of Justice.

Jurisdiction for consumer protection for transportation of household goods by motor carriers and freight forwarders would be transferred to the Federal Trade Commission.

As indicated in our fiscal year 1987 budget, the administration intends to make a later transmittal of a proposal to fund those residual functions, adding about $7.8 million to the fiscal year 1987 request for DOT.

PREPARED STATEMENT

This concludes my abbreviated statement, Mr. Chairman. We have submitted a more formal statement to the record. I will be happy to answer any questions.

Senator ANDREWS. Thank you, Mr. Secretary. We have your formal statement and it will be inserted in the record.

[The statement follows:]

STATEMENT OF JIM BURNLEY

Mr. Chairman and members of the Committee, I am pleased to have the opportunity to appear before your Committee to discuss the fiscal year 1987 budget request for the Office of the Secretary.

We are requesting an appropriation of $56.5 million for Salaries and Expenses of the Office of the Secretary. There is no FY 1987 appropriation request for Payments to Air Carriers, nor is there a request for a separate Transportation Planning, Research and Development appropriation. The specific requests for the Office of the Secretary are as follows:

SALARIES AND EXPENSES

The Salaries and Expenses appropriation, at $56.5 million, will provide for the overall management and direction of the programs of the Department. Excluding cost items that are uncontrollable or required to carry out new functions assigned to DOT by statute, the fiscal year 1987 combined Salaries and Expenses and Transportation Planning, Research and Development appropriation is a zero-growth request. Cost items that are uncontrollable include: $1.9 million resulting from the General Services Administration increase for building space rental and $575 thousand for normal within-grade wage increases. In response to new Congressional mandates, we propose an increase of $1.45 million in R&D funding for the Office of Commercial Space Transportation, and $400 thousand to begin automation of the tariff filing functions transferred to the Department from the Civil Aeronautics Board. The total request includes an offset of $1.4 million associated with the proposed termination of the Essential Air Service program.

We have worked hard over the past several years to achieve management savings in OST. For example, excluding personnel in positions performing functions transferred from CAB, the total staffing request for the Office of the Secretary in fiscal year 1987 is actually more than 100 full time equivalent employees below the level we requested for comparable items in the fiscal year 1985 budget request.

Activities formerly funded under the Transportation Planning, Research and Development appropriation, which provided for contract studies and research done in support of analysis, planning, and critical policy issues in the Office of the Secretary and for university research, are merged into the Salaries and Expenses appropriation request in fiscal year 1987. Included in this request is $2.95 million for continued contractual support for those activities. $3.5 million of new budget authority is included for continuing contract support of the Minority Business Resource Center (MBRC). The $3.5 million will be available in addition to the $0.5 million left over from previous years.

As stated, the most significant increase in research and development activities is $1.45 million in the Office of Commercial Space Transportation. This office was established in 1984 within the Office of the Secretary to encourage and promote commercial expendable launch vehicle activities by private sector companies. Also, within the salaries and expenses portion of the funding for this office, we are requesting 11 positions, an increase of two from FY 1986. Both of these requested increases are necessary to carry out our regulatory, safety, environmental, licensing and policy responsibilities in this area.

The positions acquired by the Department of Transportation at the end of the first quarter of fiscal year 1985, through the transfer of functions from the former Civil Aeronautics Board, have been merged into the Office of the Secretary and are funded for a full year in 1986. Our 1987 request for Salaries and Expenses proposes to continue funding the transferred positions, except for those associated with the Essential Air Service program, which we propose to terminate at the end of the current year. The workload added to the Department by the CAB transfer continues to grow, particularly in the areas of consumer complaints and merger cases, with no increase in positions.

In the remaining portions of the Salaries and Expenses request, approximate fiscal year 1986 appropriation levels are maintained, with adjustments for management savings wherever possible. The exception is the substantial increase of $1.9 million in the Standard Level User Charge. Total staffing in this appropriation is proposed at 709 positions in 1987, a reduction of 41 from the post Gramm-Rudman-Hollings 1986 level, which is made possible by the termination of the Essential Air Service function.

PAYMENTS TO AIR CARRIERS

The Essential Air Service program was created by Congress in 1978 as a ten-year program to subsidize air service to certain small communities. We are proposing to move the termination date up by two years. Many of the affected communities have been served by expanded new commuter-class air service without reliance on the EAS program, and seventy-five percent (75%) of those still receiving subsidies under the program are located within reasonable driving distance of alternative air transportation. We therefore believe that this program has served its purpose.

WORKING CAPITAL FUND

The Working Capital Fund provides for expenses necessary for the maintenance and operation of common administrative services in the Department. No separate appropriation is required for the Working Capital Fund, but a limitation of $69.6 million is proposed, an increase of $5 million over the FY 1986 level. The requested increase will be used primarily to finance the first full year of operational costs for DOT's new headquarters telecommunication system. This appears as an increase because, prior to FY 1987, each operating administration has separately funded its own telecommunications requirements and directly reimbursed the General Services Administration (GSA). The increased Standard Level User Charge assessed to all agencies in the DOT Headquarters building by the GSA is also included. Staffing financed by the Working Capital Fund is being reduced by nine positions from the 1986 level through management efficiencies and the reduced personnel support level resulting from termination of the Essential Air Service program.

ICC SUNSET

Legislation is being developed by the Secretary of Transportation to sunset the Interstate Commerce Commission at the end of fiscal year 1986. This proposed legislation transfers virtually all remaining jurisdiction for regulation of railroad freight rates, services, practices and abandonments to the Department of Transportation and transfers rail antitrust matters to the Department of Justice. Jurisdiction for consumer protection for transportation of household goods by motor carriers and freight forwarders is transferred to the Federal Trade Commission. $7.8 million and 160 positions have been tentatively added in the FY 1987 OST Budget as a separate line entry indicating Administration intent to make a later transmittal of a proposal to fund those residual functions. This legislative package will be forwarded in the near future.

This concludes my prepared statement, Mr. Chairman. I would be glad now to respond to the Committee's questions.

ICC SUNSET

Senator ANDREWS. Mr. Burnley, the ICC has just testified, you may have heard, that it cannot comment on the ICC's sunset legislation nor can it quantify post-sunset budget requirements.

Why isn't the Department consulting with the ICC?

Mr. BURNLEY. We are, Mr. Chairman, and I want to be sure that there is no question about that. In fact, our general counsel has been in touch in recent weeks with the Chairman of the ICC and her staff and at the present time——

Senator ANDREWS. But she just said moments ago that you had not been.

Mr. BURNLEY. Well, I have to let you address the question to her, and it may be a timing issue. It may be a timing difference.

The legislation that is now being considered in the executive branch is also being coordinated with the ICC through informal discussions. There may be a distinction she is drawing between informal consultation on the legislation versus the basic decision to seek sunset. I am testifying at this moment about the discussions we are having on the legislation, as that is what I understood your question to be.

Senator ANDREWS. If you are consulting with the general counsel, maybe the general counsel is not consulting with the Chairman. We had problems before in the ICC with communication among the various people over there.

Mr. BURNLEY. I am sorry, Mr. Chairman. Our general counsel has been in direct contact with the Chairman of the ICC, again on the specifics of the legislation. We are not talking about the basic sunset decision.

Senator ANDREWS. That is not what she said. Maybe she looked upon it as just a polite social conversation and your general counsel is going to have to, shall we say, point out that this is a business talk he is having with her

Mr. BURNLEY. We will be happy to make sure that those discussions continue.

Senator ANDREWS. Because I am sure you probably heard the remarks the Chairman made.

Have you asked your staff to check on the compatibility of ICC's proposed quarter million computer purchase? Are you going to be happy to be getting these new computers they are getting for you just as they go out of business?

Mr. BURNLEY. No, sir; we have not and that is just the kind of issue that we have to have close staff coordination on. I would point out, though, that I know nothing about the intended purpose of those computers and it may well be that they would end up at the Department of Justice or even the FTC.

So that would be the threshold question, who would inherit them?

Senator ANDREWS. Well, as they told us, they are ordering the kind that can be used in other departments, and even though they cannot show any savings in getting new computers over how they are now performing, they seem to indicate, as you heard, that other agencies of Government—I would assume this is another agency, DOT—will be happy to get them.

Mr. BURNLEY. Well, sir, we have our Assistant Secretary for Administration, Jon Seymour, and his staff in contact now with the ICC staff. That is just the kind of issue we have asked them to talk about.

We do not yet have an answer as to what the computers will be used for, however.

Senator ANDREWS. Well, if you are going to be on Chairman Gradison's Christmas gift list, you better take a look at the kind of presents she is getting for you.

Mr. BURNLEY. We certainly will, sir.

STAFFING AFTER ICC SUNSET

Senator ANDREWS. She also just testified that you have the overhead in place to allow for reduced staffing after ICC sunset. Yet the budget requests $160,000 for the general counsel's contractual support, including consultants on—and I quote—"further deregulation of bus, truck, and barge industries."

Why have consultants do this work, especially next year after sunset?

Mr. BURNLEY. I am sorry. Was that our line item, Mr. Chairman, or in the ICC budget?

Senator ANDREWS. That is in your line item, page 16.

Mr. BURNLEY. I will have to take a look at that. The basic exercise involving the calculations on how we would integrate and merge staffs, if

I may help on that point—and Mr. Karam will find the particular reference and I will try to comment on that as well—is that we took the personnel numbers at the ICC now and we eliminated all personnel working in nonrail regulation. We eliminated the commissioners and their personal staffs, since those would no longer be necessary, and we also reduced the count by the personnel performing functions that we now take care of. For example, we have our own personnel department. We do not need to bring a freestanding personnel shop in.

So that was the exercise by which we reached the number that appears in our budget. We do think, however, that as Chairman Gradison said happened on the CAB sunset exercise, after consultations with the ICC we would probably end up with some further modification of those numbers. Obviously, the Congress would ultimately decide what was necessary.

ICC SUNSET LEGISLATION

Senator ANDREWS. When will legislation be submitted to sunset the ICC?

Mr. BURNLEY. We have had that legislation in the interagency coordination process for a couple weeks, Mr. Chairman, and I would expect it would be virtually any day. I mean that is a process OMB controls and as soon as they notify us that it's been cleared, then we will send it up.

Senator ANDREWS. Where is the formal coordination with ICC if it is going to happen any day and the Chairman did not know anything about it when she was here just half an hour ago?

Mr. BURNLEY. Yes, sir; again, I want to be sure—and she will have to speak for herself——

Senator ANDREWS. She just did.

Mr. BURNLEY. In the last 2 weeks, we have had discussions both with her and her staff about the legislation. That again, I think, may be different and apart from the discussions that she said she was not involved in on the basic sunsetting of ICC.

I know that these discussions have occurred, Mr. Chairman, because I have called her on the telephone myself to initiate them.

Senator ANDREWS. Could you provide, Mr. Secretary, summaries of those meetings for the record, because they conflict 180 degrees with what the Chairman just told us.

Mr. BURNLEY. We will be happy to clarify that.

If I may also, on the line-item entry on consultants to General Counsel's Office, let me provide an answer for the record on that, if I may, as well.

Senator ANDREWS. Fine.

[The information follows:]

DOT CONTACTS WITH ICC CONCERNING SUNSET PROPOSAL

(Prior to Senate Appropriations Hearing)

- January 9, 1986 meeting at ICC on ICC sunset:

DOT personnel present:

Ed Rastatter, Chief of the Regulatory Review and Planning Division in DOT's Policy Office
Victoria Dailey, Staff Assistant in the same office

ICC personnel present:

Ed Guthrie, Managing Director
Mary Hogya, Budget Director
Dave Konschnik, Chief of Staff
John Hennigan, Chief of Policy
Dan Campbell, Deputy General Counsel (at the time of the meeting he was Commissioner Andre's Staff Assistant)

Subject of discussion:

-- Discussed effect of Administration's budget proposal
-- Discussed current ICC regulatory duties
-- Discussed what resources are currently being used and what are planned to be used in the future
-- Reviewed manpower resources and how those were currently divided into functions
-- Discussed past proposed statutory changes and how they could be revised to be of current use

- March 11, 1986 phone call from Deputy Secretary Burnley to Chairman Gradison to set up an informal briefing on DOT draft ICC sunset bill. Briefing was set for the next day.

- March 12, 1986 meeting at ICC re sunset:

DOT personnel present:

Jim Marquez, General Counsel
John Collins, Assistant General Counsel for Legislation

ICC personnel present:

Chairman Gradison
John Hennigan, Chief of Policy
Dan Campbell, Deputy General Counsel
Alex Jordan, Director of Government Affairs

Subject: ICC sunset bill as drafted by DOT:

- DOT summarized DOT draft bill and provided informal copies
- Chairman Gradison indicated personal support for sunset and stated that her staff would work with DOT
- Discussed prospects for legislation in Congress
- ICC was asked by DOT not to comment formally until requested by OMB

o March 12 telephone conversation on ICC sunset between Jon Seymour, DOT Assistant Secretary for Administration, and Dan Campbell, ICC Deputy General Counsel, in which they agreed to set up a series of meetings and briefings to discuss administrative and personnel details related to sunset. Dan Campbell said that Ed Guthrie, ICC Managing Director, would be the point of contact. (Note: The first of these meetings was held on April 10.)

o March 13 telephone conversation between John Collins, DOT Assistant General Counsel for Legislation and Dan Campbell, ICC Deputy General Counsel. John Collins advised ICC that he had been informed by the Office of Management and Budget (OMB) that the ICC would not be a part of the formal OMB clearance process. This is because ICC is required by statute (31 USC 1108(f)) to submit to Congress any comments on legislation that it sends to OMB. John Collins invited the ICC to provide comments informally to DOT, if that would be permissible under the statute. No comments were provided.

CONSULTANTS IN OFFICE OF GENERAL COUNSEL

The request for Other Costs in the amount of $160,000 for the Office of General Counsel includes the following items:

Travel	$ 60,000
Consultants	45,000
Other Contractual Services	55,000
	$160,000

Outside consultants would be used only if the Department does not have the internal resources to conduct needed analysis. It may be less costly in some cases to retain consultants to perform an analysis if they have already developed the data. Furthermore, assuming that these industries are deregulated by September 30, 1986, the possibility exists that Congress might require the Department to perform oversight studies regarding the effects of deregulation.

RAIL REGULATION BUDGET

Senator ANDREWS. The ICC budget requests 292 staff and $18.7 million for rail regulation. The combined Department of Transportation and Department of Justice fiscal year 1987 request to perform these functions is a little over $11 million.

I think this is very commendable, but you seem to be able to propose to perform these functions more efficiently than the Commission. Do you think the Commission has been that sloppy and that wasteful of funds that you are now going to do 18 million dollars' worth of work for $11 million?

Mr. BURNLEY. With all due respect, Mr. Chairman, I do not think that is fair to the Commission. We have got——

Senator ANDREWS. No; but those figures are what are in the proposal.

Mr. BURNLEY. I know that, and there is an explanation. Both we and the Justice Department Antitrust Division today have quite a few folks who have expertise on rail regulatory matters already on our payrolls. Obviously, there will be a good deal of overlap and when you sunset an agency there ought to be some consolidation and some savings.

As a result, I would expect that we would be able, between the two departments, to do it somewhat more cheaply. But the long and short of it is that I think that in fairness to the ICC, you cannot simply take the combined Justice and DOT request of $11 million-plus and compare it to their $18 million freestanding operation today.

There will clearly be some folks we have on board who can be used for those functions.

RAIL FUNCTION IN DOT

Senator ANDREWS. What organization in DOT will be absorbing the rail function?

Mr. BURNLEY. That is the kind of issue, Senator, on which, if I may, I would like to defer being very specific until the legislation is submitted. That is exactly the kind of issue that we will be discussing once the legislation is up here, and if I could just withhold answering that until then, I would appreciate it.

Senator ANDREWS. But the legislation is coming up any day. You ought to have a pretty good feeling on it.

Mr. BURNLEY. But that is why we are in the interagency coordination process, Senator, to get clearance to answer questions of just that sort.

Senator ANDREWS. Senator Chiles.

POLITICAL APPOINTEES

Senator CHILES. Thank you, Mr. Chairman.

Mr. Burnley, we are pleased to have you here to represent the office. As you know, since 1981 the number of employees in the Department has dropped by over 8,000 while the number of political appointees has increased by 30 percent.

Last year the committee capped the number of political appointees that may be appointed by the Department at 138. How many political appointees are now at the Department?

Mr. BURNLEY. At the moment, Senator, we have on the schedule C and noncareer SES lists 133 folks. We have five in process. Now, that covers the part of the Department that this committee has jurisdiction over in the appropriations process. MARAD, as you know, is in a separate account.

Senator CHILES. Generally we have supported your efforts to economize at the Department as you have been able to do with regard to overall employment.

Why has it not been possible to economize with regard to the number of political appointees?

Mr. BURNLEY. Senator, let me give you two answers to that. First, we have less than two-tenths of 1 percent of our total payroll occupied by political appointees today. In other words, we have a department of approximately 100,000 people and a couple dozen presidential appointees which are statutory positions, and a grand total of another 133 folks outside of the maritime area. So I do not think there is any excess at all.

Second, you used a 30-percent number, and there is a game that gets played in these areas. I think we are all familar with it and we might as well put it out on the table. It depends on what you pick as your base.

If you pick the fall of 1980, 30 days before a presidential election when the Carter administration had emptied all of their political appointees out into the election campaign, then you bet we are going to look higher.

On the other hand, if you pick a time in that administration or early in this administration that is comparable in terms of how it fits with the normal cycle in this town, I do not think we have any apologies to make in this regard.

Senator CHILES. You are saying the numbers would not be 30 percent?

Mr. BURNLEY. No, sir; I would like to know the exact month and year on which it is based before I comment further on it, because I think that is the game. You could be picking the base which tries to make the Department look as bad as possible. When we have been through these drills in the past, we found that in one case the discussion into which we were drawn used October 1980 as a base. And I do not think you can compare a month before a presidential election with midterm. It just is not fair.

UMTA NEW STARTS

Senator CHILES. Last year, as you may recall, I offered an amendment on the Senate floor for myself, Senator Eagleton, and others to disapprove a deferral of urban mass transit funding for new start systems.

That deferral disapproval became law in last year's continuing resolution, Public Law 99-190. This year in the President's budget, the administration proposed a rescission of these funds and that action was found to be an impermissible reimpoundment by the GAO on March 11, 1986. They found the funds should be made available for obligations.

The dispproved deferral was for congressional earmarks of new start funds for five cities: Los Angeles, $129 million; San Diego, $11.3 million; St. Louis, $10 million; Jacksonville, $1.8 million; and Miami, $71.5 million.

Who was it that recommended a rescission after the deferral had been turned down and when can the cities expect to hear from the Department?

Mr. BURNLEY. Senator, as you correctly point out, the GAO issued its opinion on March 11. We are very actively reviewing that opinion and we ought to have a judgment in the very near future as to how we react to it.

I might add, however, there is nothing that prohibits the executive branch, when a deferral has been turned down, from seeking rescission. Rescission is simply a request. And as you know, the clock is still running on the rescission request. But we have certainly taken note of the GAO opinion. We have our general counsel working on it and OMB's general counsel is also very actively reviewing it. I would hope the money would be out shortly, if that is the way we go. Otherwise, we would state a position as to why we did not think the funds ought to be obligated at this time.

Senator ANDREWS. If you do not release the money, it is a Federal offense. The individual ends up going to jail, as I understand it.

Mr. BURNLEY. Senator, certainly if our general counsel and the OMB general counsel, who are reviewing this now, advised the Secretary or any of the rest of us that it is a Federal offense involving jail time, we will certainly move with all due speed.

Senator ANDREWS. That sharpens your perception and makes you more responsive.

Mr. BURNLEY. But nonethless, what we have at the moment is a GAO opinion. And we are both respectful of that opinion and have our lawyers reacting to it and would hope to have an answer as to our position very shortly for you.

Senator CHILES. Well, can you give us some parameters of very shortly?

Mr. BURNLEY. Days, Senator.

Senator CHILES. Are you going to have another deferral by virtue of waiting on the lawyers?

Mr. BURNLEY. No; that is not our intent at all, but we are not talking months. We are talking a few days, a week or two.

Senator CHILES. A few days, then?

Mr. BURNLEY. Or a week or two.

Senator CHILES. Two weeks or a week?

Mr. BURNLEY. Week or two. I said a week or two.

Senator CHILES. A week or two.

Mr. BURNLEY. Yes, sir; the issue is being worked on very actively.

MIAMI NEGOTIATIONS

Senator CHILES. All right, sir.

As you know, the Secretary was required by law to conclude good faith negotiations with Miami for a full-funding contract for the Metro People-mover extensions last Wednesday. During the 90-day period for negotiations, the Miami officials made repeated trips to Washington for draft full-funding contracts.

After each trip, Miami made changes in the document to address the UMTA concerns. Then last Tuesday night—well, at that point, Mr. Chairman, I would like to put in the record an outline of the negotiations that took place in the legislation—I mean the letters that took place in that.

Senator ANDREWS. Without objection, the outline will be made a part of the record at this point.

[The information follows:]

DADE COUNTY FULL FUNDING CONTRACT NEGOTIATIONS—90-DAY SEQUENCE OF EVENTS

December 19, 1985—Continuing Resolution enacted.

1. December 20, 1985—Letter to UMTA Administrator requesting start of negotiations.
2. January 10, 1986—Second letter to UMTA Administrator requesting start of negotiations.
3. January 27, 1986—Letter designating Joseph La Sala as UMTA's lead official for negotiations in Full Funding Agreement.
4. January 31, 1986—Letter to Mr. Joseph La Sala transmitting initial Dade County draft of Full Funding Agreement.
5. February 6, 1986—Letter confirming first negotiating session with Mr. Joseph La Sala.
6. February 21, 1986—Letter specifying unresolved issues remaining after first negotiating session.
7. February 24, 1986—Letter to UMTA Atlanta Office transmitting technical attachments to Full Funding Agreement.
8. February 27, 1986—Letter transmitting UMTA's written comments on initial Dade County draft of Full Funding Agreement.
9. March 3, 1986—Second Dade County draft of Full Funding Agreement.
10. March 4, 1986—Letter specifying unresolved issue remaining after March 3 negotiation session with UMTA Administrator.
11. March 10, 1986—Letter transmitting legal memorandum and final Dade County draft of Full Funding Agreement.
12. March 13, 1986—Letter transmitting reworded Dade County draft Full Funding Agreement, addressing UMTA problem with "obligating" funds absent an approved EIS and requesting a meeting to make the deadline.
13. March 18, 1986 (received by Dade 3/19/86)—Letter addressing six UMTA issues and transmitting first UMTA draft Full Funding Agreement.

March 19, 1986—90th day after enactment of CR.

14. March 20, 1986—Letter responding to UMTA draft Full Funding Agreement in advance of scheduled March 23 meeting.
15. March 21, 1986—March 23 meeting canceled by Secretary's instructions; all Full Funding Agreement negotiations suspended.

REQUESTS FOR START OF NEGOTIATIONS

Senator CHILES. It is interesting to note that in that we start off with December 20, 1985. December 19, the continuing resolution was enacted. The 20th, the first letter was sent to the UMTA Administrator requesting a start of negotiations. That was Dade to UMTA. And January 10, the second letter requesting the start of negotiations. That is again Dade to UMTA.

The 27th of January, UMTA designated Joseph LaSala as their lead official. Then it goes on. January 30—well, rather than go through all of this, Mr. Chairman, it will be in the record.

But this pretty well points out that virtually a dozen initiatives by Dade County to UMTA, sort of three replies from UMTA. They did have some negotiation sessions, but all of the letters are Dade County's drafts, Dade County trying to take care of UMTA problems that arose.

Then on March 18, there is a letter from UMTA addressing six UMTA issues and transmitting the first UMTA draft for full funding agreement. I think it is interesting to note that was on the 89th day of the negotiations that UMTA finally proposes a full draft.

And then we see that the day that Dade County received that, on the 90th day, they received also a phone call from the UMTA general counsel announcing that the negotiations were being terminated.

Why were the negotiations terminated?

Mr. BURNLEY. Senator, if I may, I will answer that question and then if I can go back, there are several things that they left out of that chronology they gave you, and I think the record ought to be complete.

Senator CHILES. Yes, sir.

Mr. BURNLEY. The negotiations were suspended because we found the day before on the House side, not the Senate side, that the folks who have responsibility for our appropriations for the Department and OST as well, on the majority side of the House, were tying OST appropriations to whether we would ignore the statutory requirements on EIS.

The Secretary has made it very clear and the UMTA Administrator has made it very clear that we intend with this project, as with all others, to see that NEPA is fully complied with.

Unfortunately, the folks in Miami have not done anything to get that process moving seriously. We have published a notice in the Federal Register that we are going to proceed on an EIS, and we would hope and expect that the Senate would support us in asking that the EIS be completed.

I would simply point out that the Environmental Impact Statement is itself supposed to be, by statute, not as a matter of policy, but by statute, a document that is complete and available before we sign a full-funding contract.

Now, it does seem to me that we ought to be—if I may complete the answer to that question, Senator—we ought to be allowed to work through that process and meet the statutory requirements without what was clearly billed to us as punitive action by the House Appropriations Committee. That action was directed at the OST S&E account, but was tied to the issue of the EIS to try to coerce us into ignoring NEPA. And we are simply not going to ignore it.

We had, on the other hand, tabled a draft contract. Now, the first part of your question was based——

EIS CONTRACT

Senator CHILES. Well, now, just stop right there a minute, if I might ask you something then. My understanding is that Dade County proposed that the successful EIS contract would have to be completed before the full-funding agreement would go through.

Now, that certainly seems to comply. It is not an ignoring of the EIS. We do things around here all the time, contingent upon an authorization taking place or contingent upon the completion of action.

Mr. BURNLEY. If I may come back to that, Senator. You know, we are required under the NEPA to use the EIS as part of the decisionmaking about whether a project should be funded at all. It is not window dressing; it is not cosmetic; it is a basic tool that the Congress says should be a part of any such funding decision.

And what Miami has said to us is, they would just as soon that we skip that stage in terms of going ahead and signing a contract with them on the money. We simply do not have the legal authority to do that.

Senator CHILES. I do not think they did say that, skip the stage.

Mr. BURNLEY. Well, they have. That is the effect of what they have done.

Let me take it a step further. That is not the only deficiency, Senator. They also have failed to take the steps necessary to date to put up what they agree is their local share. And once again, it would be unprecedented, and I think it is also a matter of statutory requirement, that they have funded the local share of the project.

Senator ANDREWS. Well, let me get one comment in here, Mr. Secretary.

A minute ago, you were talking about punitive action taken by the Appropriations Committee in the other body.

Mr. BURNLEY. That is correct.

Senator ANDREWS. Let me give you just a word of advice. In extending the punitive actions and coming back and lashing back at Seattle and Los Angeles who are not even a part of this argument, you are going to breed the darnedest, biggest lump on your nose you ever did see.

It is one of the stupidest political decisions I have ever seen in a department in 22 years. It does not make any darn sense at all.

Mr. BURNLEY. Let me just make clear that we had certainly——

Senator ANDREWS. Well, I do not want to take any more of my colleague's time, but I think it is not the way to run a department.

Senator CHILES. On punitive actions, you know, we are seeing a sort of—well, there is another word for it—a "something" contest, you know, a match, I do not want to supply the word. But Mr. Stanley has taken the position all the time through here that he was not going to do this, did not intend to, was going to do everything he could to stop it, and that of course is why you found the language that was placed in there saying that they would negotiate.

Senator ANDREWS. And Stanley's whole operation has been to extend and extend and delay and delay and he is costing more money.

Senator CHILES. Any reason to keep it from happening. And now, of course, we see he has provoked a reaction, I guess, on the House side and now you all are taking the cross on the basis that here you are being treated punitively by the House because they are doing something.

If I ever saw something provoked, I will have to say, Mr. Secretary, if you jab that old tiger in the cage long enough, he is going to try to get at you or bite your hand or something.

When you see the negotiations here and you see that on the 89th day you come up with a complete draft, a complete full-funding draft, with nothing pertaining to the discussions that have taken place prior to that time, Dade down there breaking their back trying to comply with everything that you were requiring them to come up with, and then you throw that at them on the 89th day and say OK, how do you answer this——

Mr. BURNLEY. Senator, that is not what happened, and I would really like a chance to set the record straight if I may have one, but that is not what happened.

Senator ANDREWS. Well, what happened, in your own words you said about 5 minutes ago that because of a punitive action taken by the House, you were responding. And in responding, you generate your own punitive action. You broaden the dispute. You include two or three States that were not even a part of the first problem. You end up having an individual in your organization, Stanley, cancel, slow down, defuse contracts for buses that caused three or more States a lot of embarrassment and a lot of delay time.

It is a crazy way of running a railroad.

CHRONOLOGY OF UMTA NEGOTIATIONS

Mr. BURNLEY. I will agree with that part, Mr. Chairman, and I would like again to have the chance to spell it out.

Now, the chronology, Senator Chiles, that you apparently were given by Miami, unfortunately omitted the January 6 meeting that Mr. Stanley had with the executive director of Metro Dade where he laid out these basic requirements. It omitted the February 10 meeting Mr. Stanley had with Mr. Fletcher.

February 13, Joe LaSala, the Chief Counsel of UMTA, met with Fletcher and other attorneys from down there. February 19, he met with them again.

Not only has there been good faith, Senator, but the problem we have is very simply that the folks in Miami have not come up with any guarantee on the local share. They have not done anything on the EIS, which is a statutory requirement. They have not done anything on preliminary engineering. They have not done anything on design. But we have simply said to them, and the document that was sent to them March 18 spelled out what they had been told over and over again for 3 months in these meetings, that when they meet those basic requirements, we are ready to sign.

Similarly with Los Angeles and Seattle, there were meetings that went on through the January, February, March period. As a result of those meetings and an attempt to meet in good faith the Congress' requirements, Mr. Stanley sent those letters as we approached the 89th and 90th day, so that we had a clear on-the-record paper trail of what had, in fact, been discussed in great detail in all three instances through the intervening months.

I think the chronology needs to be complete.

SEATTLE AND LOS ANGELES NEGOTIATIONS

Now, with respect to Seattle and Los Angeles, we certainly do not wish in any way to be punitive toward anyone, but what we found was on the very day that the folks in Los Angeles were in a town meeting with senior OST officials as well as UMTA officials, we had this punitive action taken. And it looks like when we have these meetings, these negotiations, we simply asked these folks to meet the basic statutory as well as policy requirements so that we can then reach the point where we can sign full-funding contracts, we asked only that we would be given the opportunity to play that through.

But no, we were told, the OST S&E account is going to be held hostage for this fiscal year in a way that would mean, for example, that we simply cannot send our negotiators abroad anymore in international aviation negotiations between now and September 30, if that cut goes into effect, and we may have to furlough several hundred people in the OST office.

At that point, the Secretary said enough of this nonsense. If that is the way we are going to get treated, when we have had these negotiations going on for months, and we are simply trying to make sure that the full-funding contracts meet the basic statutory and policy requirements, then let's just hold up and see if we cannot straighten this thing out and make sure that issues which have no business being tied together are, in fact, not tied together.

Now, I would hope that this committee could assist us in making sure that we are given the opportunity to function in OST for the balance of fiscal year 1986 and to carry out our other responsibilities that have nothing to do with mass transit, while simultaneously making sure we meet the obligations you want us to meet on mass transit.

And it is the tying of two entirely unrelated, separate accounts in a way that was conveyed to us—we did not have to speculate, we were told there was a tying—that has caused this problem. But again, we have got on the table, with all the cities involved, complete draft full-funding contracts and we would hope and expect we could move very quickly to the completion of those discussions.

MIAMI MEETINGS

Senator CHILES. Well, I think that again it is going to take good will on both sides, and I do not think that is going to happen as long as you have a Mr. Stanley who will walk down and say one thing in one meeting and another in another, and pretty well brag about what he is going to do as to whether there is ever going to be money made available or anything like that.

You are not going to evoke a lot of good will around here as long as those things are going on.

Mr. BURNLEY. Senator, certainly if there are specific instances that we need to call to his or any other official's attention, I would be happy to know about them and call that problem to his attention.

However, again, back to Miami. All the good faith in the world, all the meetings in the world, all the exchange of documents in the world cannot in any way fix the fundamental underlying problem, and that is: Those folks have not done what they have to do so that we, as a statutory matter, can sign a contract with them. And we have not been dragging our feet on that. We have held repeated meetings through the last several months, spelling out in detail what they need to do.

We have offered to assist them in that regard. But when we, for example, are told that about 50 percent of the local share is going to have to come from a penny sales tax that had not even been scheduled for referendum yet, and we were further told by the city fathers that if that referendum fails, there simply will not be any project, then obviously I think we would all agree that the local share is not in place.

And it is that kind of issue that we are simply saying we have to get a handle on, as well as, of course, these problems with EIS. Then we are ready to sign the full-funding contract with them.

AEROSTAT PROCUREMENT

Senator CHILES. Mr. Burnley, last time we talked was regarding the procurement of Aerostats. The committee directed the procurement of three Aerostats in September 1984 with reprogrammed funds and provided $6.3 million last June in the supplemental for the purchase of two more.

I understand that in July 1985, you signed your letter contracts with RCA and TCOM for one Aerostat each for delivery in January 1986. That head-to-head competition was originally scheduled to be completed in September 1986.

When do you expect the delivery of the Aerostats and do you still expect to have completed the head-to-head evaluation by September 1986?

Mr. BURNLEY. The answer, Senator, is that the first one was delivered on January 29. We expect to get the second one before the end of this month. And yes, sir, we do expect to have completed what we call the flyoff by the end of September.

We have run into a couple of problems. One is that we are finding they are going to cost us twice as much as the Congress and we thought, and that issue still has to be addressed further.

The second problem is that, as you are no doubt aware, with the leased Aerostats, we have had a series of unfortunate incidents. I must say in all candor, I think we must consider the issue of the very viability of the Aerostat. Conceptually it is a great idea, but in the real world we are not sure that the Aerostat is going to be able, in the long term, to meet the need that we have here.

So that issue still has to be left open, we think. Of course, one of the things we would achieve with this flyoff over the next few months, we hope, is a little bit higher sense of confidence about the ability of the Aerostat to do what it is intended to do.

There is the basic fact that the Aerostats we were leasing were not designed for use on the water. The two prototypes we have are designed for use on the water, and we are hopeful that those design differences will keep them up a little longer. But we have both the basic issue of viability of the platform itself, and the cost issue.

But we are proceeding. We are on schedule in terms of the flyoff.

INTERMODAL RAIL COMPETITION

Senator ANDREWS. Thank you, Senator.

Mr. Burnley, Ex Parte 445, an intermodal rail competition, grew out of an ICC proceeding designed to get the shippers and the railroads together outside the regulatory process to settle their differences without the need for ICC decisionmaking.

Does DOT believe that this is an appropriate process and will it continue ICC's current role?

Mr. BURNLEY. Senator, we do think it is an appropriate process, and in fact there were, as you know, several NIT League and AAR agreements as well. We are very much of the opinion that anytime you can get the shipping community and the railroads together to reach some understandings, it helps everybody's best interests anytime you can have agreement and consensus on the rules.

So we would frankly encourage that kind of activity to the extent we can. We were not directly involved in the NIT League-AAR discussions, but were very much cognizant of them and encouraged them.

COAL SHIPMENT

Senator ANDREWS. ICC recently adopted maximum rate guidelines for the shipment of coal. Does DOT support the continued use of these guidelines?

Mr. BURNLEY. Let me say this, Senator: The coal issue is one of those where there is so much heat it is sometimes hard to find the light. By that I mean, put another way, using the per se standard, 85 percent of the coal shipments do not even fall within ICC jurisdiction currently, as I understand it. As a result, the question may be one that gets a whole lot more discussion than the underlying issues in terms of what really goes on day to day out there.

Senator ANDREWS. That is right. They have had these maximum rate guidelines that they have adopted, and now you are going to take over.

Mr. BURNLEY. If we inherit those guidelines, Senator, we will certainly both go ahead and apply those guidelines as written as of the day we inherit them. But I will also say this: The coal issue is one that does get a lot of ongoing attention and I would expect that, if we assume those functions, we would go through yet another review shortly thereafter about whether those guidelines need to be further modified.

Senator ANDREWS. Do you plan to expand those guidelines to other commodities such as grain and chemicals?

Mr. BURNLEY. We have no plan, Senator, at this point about whether a particular set of ICC guidelines would be contracted or expanded, and that is precisely the kind of issue on which I think it would be inappropriate for us to prejudge.

If the responsibility comes to us as a result of ICC sunset, then that is the time, I think, and the place for us to get into that.

Senator ANDREWS. Well, if we move toward an ICC sunset, which the administration wants to do, shouldn't there be some opinion-making functions in place where those, shall we say, duties are going to be vested for the future?

Mr. BURNLEY. We are not proposing as a part of sunset, Senator, that there be any change in the basic statutory and regulatory scheme as to the railroad industry. We are proposing a reassignment of the function, but we are not proposing any changes, and I certainly agree with you that we ought to assume those functions as they presently exist.

RAIL ABANDONMENT CASES

Senator ANDREWS. ICC has noted on its fiscal year 1987 budget estimates that rail abandonment cases are becoming increasingly more complex because lines recently proposed for abandonment have been more profitable, in better condition, and are more heavily trafficked.

ICC also anticipates that major legal cases will be generated by the more complex rail abandonments requiring judicial review and/or oral hearings.

In light of diminishing staff years, how will DOT handle these increasingly difficult rail abandonment proceedings?

Mr. BURNLEY. Senator, we would obviously have to have in place the adjudicatory mechanisms to look at those case by case. I think the best guide in terms of how we would approach that issue is to look at how we have handled the CAB sunset exercise.

Similarly, we inherited some very complex proceedings there and we had from January 1 of last year, and it continues to this day, a series of exercises underway to streamline the handling of those cases while preserving the rights of all interested parties to get their views on the record and get full consideration.

So I think using, as we are doing on the CAB side, administrative law judges to the maximum extent possible, looking at some very specific but hopefully fairly short time deadlines on comment periods, that sort of thing, and then making sure we have in place a decision-making mechanism that can move quickly to a decision after you have all the facts is the best way to go at it.

Complexity is often in the eyes of the beholder and what we find most complex in some of these abandonments is that sometimes it is just a communications breakdown between the shipper and the railroad in question. In fact, in numerous instances, in the last 8, 10, 12 months, the Department has tried, where we became aware of such a situation, to play the role of mediator to some extent and to work on developing short line alternatives and that sort of thing.

So already, from our sideline role in these matters, we have been trying to do what we can to cut through the complexities and streamline them in the cases we have been pulled into.

FAA MANAGEMENT TRAINING SCHOOL

Senator ANDREWS. Mr. Secretary, the Department has selected Embry Riddle Aeronautical University as the site for FAA's management training school. This selection is contingent on the General Services Administration certification on facility cost.

What is the status of that GSA review?

Mr. BURNLEY. The GSA is in the field right now and I have been assured that we will hear from them in the very near future. I do not have a specific time deadline, but they are both reviewing the paper trail and doing field visits right now.

I hope and expect, Senator, we will know the answer to the question whether they believe that it is reasonable within the next few weeks.

EMBRY RIDDLE BID

Senator ANDREWS. What elements of Embry Riddle's bid are still under review?

Mr. BURNLEY. Just the GSA portion of it having to do with the reasonableness of the space leasing arrangement.

Senator ANDREWS. Now, if for any reason the Embry Riddle selection is not finalized, will the Department select again from the current bids, or will a new request for bids go out?

Mr. BURNLEY. Senator, as you know, I have the misfortune, in one sense, to be the SSO in this matter, and I say misfortune because it is a very complex and very important procurement and has been the center of a good deal of interest.

I must tell you I have not faced that particular question. I have two choices if that happens. As you suggest, I can go back to one of the other nine bids, or we can start over.

There are arguments both ways, and I would hope, frankly, for the sake of the FAA, that we would not have to face that question, but I have not yet been confronted with the situation where I have to decide which way we are going to go. When and if that occurred—as unfortunate as it would be—then all I can promise you is that we will make a decision in the Department very quickly about which way is better.

But, frankly, I would want to go back and look at the bids, and talk to our in-house people as well about whether we thought we could do better. In the next round we might well do worse. It might end up costing the Government a lot more. Some of the bidders that were there the first time are no longer with us. One of the Oklahoma bidders notified us some time ago that they had pulled out, so it would really require going back through the very important second, third, fourth tier questions to decide which way to go.

Senator ANDREWS. Mr. Secretary, Senate report 98-561 contained directives on this facility selection as follows, and I quote: "The Committee directs the FAA to give priority consideration to colleges and universities with strong aviation, business, and public administration programs as potential future sites for its management training school.

In its selection process, the FAA should pay particular attention to the quality of the facilities and the learning environment for this important program." That is the end of our statement.

Mr. Secretary, that was put in because this is supposed to be a management training school for the top people in a field that is getting increasingly more complex. It would appear to us from Embry Riddle's catalog, that it offers no degree program in public administration. In fact, it appears there is only one three-credit public administration class.

How does this facility then meet the Secretary's commitment to select a facility with strength in all three areas?

Mr. BURNLEY. Well, Senator, we think that it does clearly meet that commitment and as you may well be aware, Embry Riddle has master's degree level programs for business administration in aeronautics, in aviation management, and it also has an aeronautical science master's degree program.

Additionally, Embry Riddle has formed a consortium with the University of Central Florida which has graduate programs in business, public administration and management psychology. And, of course, we are, as the next stage, going to be taking bids on the instructional part of the contract, but that consortium, they have already informed us, will be one of the bidders.

So we do think that the very appropriate guidance that this committee gave us is being fulfilled. I might note that there was one sentence that followed the excerpt you read in the committee report, which said the FAA should pursue vigorously the acquisition of the best location possible to ensure that the greatest value is obtained for the Government. And we certainly tried to fulfill that as well.

FACTORS IN FACILITY SELECTION

Senator ANDREWS. Did the MTS solicitation outline factors other than price to be considered in making the award?

Mr. BURNLEY. Yes, sir.

Senator ANDREWS. Was the selection made solely on the low bid offered to DOT?

Mr. BURNLEY. Absolutely not. In fact, the decision would have been different had that been the case.

Senator ANDREWS. So the Department's selection did not, in your mind, sacrifice quality for price for the Nation's airway systems management?

Mr. BURNLEY. To the contrary, Senator. Equal weight was given to the technical writing of the various bids, to price, and to the business management category. There were three basic factors. And again, had price been the sole motivating force behind the decision, there would have been a different decision.

Senator ANDREWS. Did DOT consider the transportation cost savings offered at the North Dakota site along with a route connection?

Mr. BURNLEY. Yes, sir; we had a category called unique costs and we ran all of the costs, including relocation costs from Lawton, OK, where we are presently located, to each of the competitive bidders. We considered all of the support costs and the ones you specifically mentioned, transportation costs, were very much a part of that.

Senator ANDREWS. Did you request specific dedication of the MTS facility for the FAA?

Mr. BURNLEY. Yes; we did make very clear that dedication was an important criterion. In fact, that is one of the factors that weighed in favor of the Embry Riddle bid. There were other bids where we also had that dedication.

Senator ANDREWS. But the Embry Riddle facility provides exclusive use of the facility by the Government?

Mr. BURNLEY. Yes; and the proposal is that the facility itself will be in a location where the dormitory space, the eating space, the administrative space, and the classroom space are all connected by covered walkways and in adjacent buildings.

Senator ANDREWS. Did the evaluation include a comprehensive review and analysis of the financial stability and financial ability contained in Embry Riddle's most recently audited financial report?

Mr. BURNLEY. Senator, I do not know whether the Source Evaluation Board looked at their most recently audited financial report and we will be happy to supply that for the record.

I will tell you, though, that we did again have as one of the three basic categories that got equal weight the business management proposal of each of the bidders, and that is precisely the kind of information that we went into in very thorough detail.

I cannot tell you about that particular document. We will be happy to supply that. But one of the three legs on the tripod here was the whole business management proposal, and they were given an excellent rating in that area.

[CLERK'S NOTE.—The information was received subsequent to the hearing and is available for review in the subcommittee files.]

ST. LAWRENCE SEAWAY

Senator ANDREWS. Mr. Secretary, on another subject, as you know, the St. Lawrence Seaway has been in the news a lot lately, and not for the best of reasons. It has broken down, locks have caved in, bridges have collapsed. And for the second year in a row, the United States is forgoing its historical share of receipts in order to keep tolls down.

Does the Department have a short- or long-range strategy on how to keep the tolls down?

Mr. BURNLEY. Yes, it does, and Administrator Jim Emery, I think, has done a first class job in implementing that strategy. The basic strategy, Senator, is to build business. And as I am sure you are aware, Mr. Emery has led two trade delegations in the last 2 years to Europe and he has put in place some aggressive new marketing practices, beyond just trade missions, that we hope over the next several years will help us at least preserve the present traffic base in the seaway.

Now, as you know, the physical facility is getting old. The Canadian portion of it in particular has suffered a lot of reversals recently, and in the American seaway, the part of it that we are responsible for, we are also looking at what needs to be done in preventive maintenance and restoration to avoid the kinds of problems the Canadians have had in the last 12 months.

Senator ANDREWS. Mr. Secretary, at the St. Lawrence Seaway overview hearings that we held, Administrator Emery suggested getting the Office of the Secretary and the State Department together to assist in the short-run negotiating of a stable coregime, and in the long run to decide on the future of the seaway.

How soon will your office get together with the State Department to work on these problems of the seaway?

Mr. BURNLEY. We certainly have already been in touch with the seaway itself on these issues, Senator, and I was unaware of Mr. Emery's suggestion that we get the State Department in, but we can do that forthwith.

Let me say this. The discussions day to day between the United States and Canadian governments on this issue have been occurring at the administrator level for the most part. As and when necessary, the Office of the Secretary gets into those and Emery has done a good job of keeping us informed as to his working relationship.

But certainly, if it is the committee's wish, we can sit down with the State Department immediately and get them involved as well. At this point, again, I think our emphasis ought to continue to be on doing all we can to preserve and hopefully expand the trade base, because ultimately that is the best guarantee against having toll increases, if you can generate the revenue through additional traffic.

NORTHWEST-REPUBLIC MERGER

Senator ANDREWS. Mr. Secretary, when Secretary Dole was here, we asked about the Northwest-Republic merger, and now of course you have had time to set up that kind of a timetable.

What timetable have you established for the consideration of the Republic-Northwest merger?

Mr. BURNLEY. As you are aware, Senator, we have to have, as a statutory matter, a decision by July 31 and we will meet that deadine.

As of tomorrow, we will have completed the filing period for substantive comments on the merger. On April 4, all comments have to be in on procedure. As soon as we have the procedural comments in place, we will within a matter of a few days, announce whether we are going to go through a formal or informal process.

Again, the bottom line is, the decision has to be out by July 31.

Senator ANDREWS. But unless outstanding serious comments come in, complicating the process, can you assure the committee and the general public that that process will be expedited and the result will be out before the July 31 deadline?

Mr. BURNLEY. Certainly, Senator, if none of the parties who file comments on either substantive or procedural issues express a desire for more formal evidentiary ALJ kinds of proceedings, then we will take a serious look at streamlining and expediting.

We have, on the other hand, a great deal of interest in this, and it would be very inappropriate for me to comment on how we are going to play this out, because that is what we are taking comments on right now from those in the public who are interested in this issue. As always in these matters, since we inherited them a year and a half ago, we try to strike a balance between streamlining and due process.

If nobody wishes to have us go through a more formal proceeding, then the Secretary's policy certainly is that we do not look for opportunities to have formal hearings if we do not have to have them. But if it is requested, then we are reluctant, in most instances, to ignore such a request.

NORTH DAKOTA SERVICE

Senator ANDREWS. Well, Secretary Burnley, when Secretary Dole was here, I pointed out my interest in making sure that the potential passengers and the area served, which is certainly my area and others, be given every consideration in this process so we were sure that rates would not rise, nor would service decrease.

In fact, there is some potential for better service and perhaps even better rates. The challenge that we have, and I think you can give the protection to our public in our area and still expedite, the challenge that we have is that the new timetables, the new flight schedules come into effect for the summer season in approximately early May. And if we can get this in place, those new enhanced schedules and that better service will be available during those critical months of May and June and July instead of just limping into place in the middle of the summer when it is extremely difficult to change these schedules and give better service.

We are hoping as a matter of fact that we might, through this merger, get service back to some cities which have been left without service when we went to deregulation, and we might have a possibility of seeing the Jamestowns and the Devil's Lakes in my State get service yet once again.

So it is important that we get this finalized if we can by late spring, if there are no significant problems that seem to arise.

Mr. BURNLEY. And, Senator, that caveat is well put, and that is precisely what we will have to look at when the filing period closes on April 4.

Let me say this, though. We, I believe, received a letter from you, as a matter of fact just within the last week or 10 days, outlining your interest in these service issues and expedited treatment and that is a part of the file and a part of what we will be looking at.

Obviously, but I think it is worth stating anyway even though it is obvious, we do not have control of when the filing first occurs in a merger. I mean we are the recipient. The parties govern that without us having any influence over it at all.

As a result, since this case was not filed until January of this year, and given that we have only, if you stretch it out to the maximum extent the law allows for whatever reason, 6 months total to look at these cases, I do not think there is any serious danger that the Department's processes are going to impede a decision.

We are driven again by when they file. And we have plenty of work to do in this area. In fact, if I may digress for a moment, in 1984 the CAB had two merger cases. Last year, we had 11 in our first year with this responsibility. I would not venture a prediction as to how many may be filed before this year is over.

Senator ANDREWS. But you are so much more experienced now, you can handle them faster.

Mr. BURNLEY. Senator, we are learning fast; that is for sure. But the other problem we have is that we have a very full caseload and as a result, we again are not looking for opportunities to drag these things out. We do have an obligation, however, to be sure that if there are parties who wish to create a more formal record, we do not arbitrarily cut off their right to be heard.

So it is that balancing that we have to do in each case. When the filing deadline closes on the procedural comments April 4, we will take a look at the record at that time and do that which we can in the context of the record.

Senator ANDREWS. We want to make sure, of course, that the area served is protected. We want to make sure that the rate schedules are looked at so that we do not have predatory practices now that we combine two airlines operating in that area, and we want to make sure that labor contracts between the two airlines are negotiated in such a way that those people who have been loyal employees of one airline are not displaced arbitrarily.

All of those things, though, I would imagine could be handled expeditiously if there is not some major clinker, and that is what we are appealing to you to do, because it will make a great deal of difference in our area if this can be handled as expeditiously as possible while you protect those three key interests.

BIG SKY AIRLINES

Let me ask one final question, Mr. Secretary. Big Sky Airlines--and this has to do, of course, with the type of substitute service we have had after deregulation—Big Sky Airlines has recently filed a compensatory claim with the Department of Transportation.

This claim covers the period May 1981 through April 1982 and was filed after discussions with the Essential Air Service Office proved inconclusive. What is the timetable for dealing with this kind of compensatory claim, and can I have your commitment that an equitable solution will be worked out quickly?

This again impacts on service in our area, and if we cannot get these claims resolved of course, problems come up in continued service.

Mr. BURNLEY. Senator, the answer is specifically that we have already notified the folks with the State of North Dakota that we do not believe we have the authority—in fact, I think this committee would probably agree it would be bad policy for us to retroactively adjust rates in this or any other case.

But if I may, let me back up a step on why we think that is correct. We take bids on EAS and we have bidders who sometimes are able financially to do better than they predicted in their bids, and we do not try to recapture the additional profit that they make because their bid was one that they may have done better on than they expected.

Similarly, sometimes bidders misjudge the market and it costs them more than they expect. If we get in the practice of going back and retroactively covering losses where their bid turns out to have been somewhat afield from what happens to them in the real world, then what is going to happen, we fear very, very quickly, so long as the program continues, is that we are going to have people who are going to come in and low-ball us. Then we are going to end up with the whole bidding process breaking down on us, because it will be what happens, for example, in the construction industry where, if you are not careful, you end up with the change orders costing more than the original bid.

Similarly, in this case, the competitive bidding process, we think, would be collapsed very quickly if we were in the business of going back and covering it for them, where they had missed the number.

So our inclination in this matter is to say to them that which we would say to anybody else who has guessed wrong: If you guessed wrong and you made more money than you thought you were going to, we are not going to try and take it away from you; and if you guessed wrong and you lost some revenue, then we are not going to go back and retroactively adjust it.

Senator ANDREWS. Mr. Secretary, as I understand, they took over from another carrier and they moved in and the traffic was much lower than was anticipated on that route. They requested relief in an appropriate time, and this is not an after-the-fact thing to that extent.

Mr. BURNLEY. All right, sir.

Senator ANDREWS. What we would be interested, Mr. Secretary, if you would direct the appropriate officials in your shop to work with the North Dakota Aeronautics Commission in establishing what the true facts are and kind of cut through this seeming impasse that we have.

Mr. BURNLEY. We will do that, Senator. As a matter of fact, yesterday we got a request from Big Sky for $758,674 and that was the first specific request that we had gotten in this matter. We certainly will look at it and Matt Scocozza, our Assistant Secretary for Policy, will work with our EAS people to be sure that it does get thoroughly reviewed.

Senator ANDREWS. And we have a six-page memorandum sent our committee from our North Dakota Aeronautics Commission, dated March 21 that we would be glad to share with you, and we would set up an information-sharing operation so that we can get to the bottom of this as soon as possible.

Mr. BURNLEY. That would be very helpful.

NEW YORK STATE MARITIME ACADEMY

Senator ANDREWS. I appreciate your cooperation here.

I have one question that Senator D'Amato who was here and had to leave wanted to ask, have me ask orally.

And he is talking about the Maritime Administration. He understands that there are no more stumbling blocks in the path of issuing a request for proposal for the purchase of a new school ship for the New York State Maritime Academy.

Is this correct?

Mr. BURNLEY. Senator, I am delighted to say that is correct and I am just sorry Senator D'Amato had to leave, because I would have liked to have been able to have confirmed that for him, knowing his very intense personal interest.

And if you would please convey to him, the answer is he is correct.

Senator ANDREWS. He is very interested, and when do you expect the purchase actually will be made?

Mr. BURNLEY. Well, we will send a notice today or tomorrow to the Commerce Business Daily indicating that an RFP will be forthcoming, and we would expect to issue an RFP in 21 days.

SUBMITTED QUESTIONS

Senator ANDREWS. Thank you very much, Mr. Secretary. I have a number of other written questions.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

ICC SUNSET - RAIL REGULATION

SENATOR ANDREWS: If the Gramm-Rudman-Hollings Act remains in effect into fiscal year 1987, the transferred rail functions could be significantly affected. Can DOT ensure that the incorporated rail functions will be kept intact and not cut for the sake of saving another DOT office?

ANSWER: If budget cuts were required in fiscal 1987, we anticipate that their impact would be spread across all of the essential functions that DOT performs. Federal regulation of railroad freight transportation is a very important duty, and it would not be singled out for disproportionate reductions in resources.

SENATOR ANDREWS: What organization in DOT would be absorbing the rail functions? For example, would they be incorporated into the Federal Rail Administration (FRA) or would a new office in the Office of the Secretary (OST) be created to carry out these functions?

ANSWER: Various organizational options for incorporating rail regulatory functions into DOT are still being studied. Based on our experiences subsequent to CAB sunset, we believe that more than one type of organizational plan would be feasible. During the planning process for ICC sunset, we will carefully evaluate the relative merits of creating a new office in OST, dispersing functions throughout several offices within OST, or placing rail regulation in a location other than OST. As we did at the time of CAB sunset, we will develop a detailed plan for absorbing the remnant ICC functions, giving consideration to statutory requirements, staffing and budget, organizational efficiency, and other considerations.

STAGGERS RAIL ACT

SENATOR ANDREWS: The ICC uses a single standard for measuring revenue adequacy, where a railroad is revenue adequate if its return on net investment equals or exceeds an ICC determined cost of capital. Shippers and their trade organizations have criticized adequacy. Would DOT continue to use the present single standard or would DOT use other financial indicators of profitability or liquidity?

ANSWER: DOT has generally supported the ICC's use of cost of capital as the standard against which a carrier's rate of return is to be judged, and it is likely that we would continue to use such a standard after ICC sunset. However, we are aware of shipper concerns and in our comments to the Railroad Accounting Principles Board, we are proposing a number of refinements to the ICC's existing procedure for computing a railroad's rate of return. We believe that these suggestions will allow the ICC's revenue adequacy determinations to mirror more accurately the financial condition of railroads.

SENATOR ANDREWS: It took ICC until December 1985 to determine the cost of capital for 1984, and the revenue adequacy determinations for 1984 have still not been completed. Since DOT is proposing to perform the rail regulatory functions on a smaller budget than ICC, what action would you take to prevent these decisions from becoming even less timely?

ANSWER: Although our detailed plans for administering rail regulatory functions after ICC sunset are not yet completed, we believe that such regulation would be carried out in a more streamlined organizational structure than has evolved over nearly a century of ICC regulation. We anticipate that DOT regulation would provide for a smaller number of decision makers and fewer levels of review. Consequently, we think that revenue adequacy determinations will be made more quickly at DOT than at the ICC, rather than more slowly.

RAIL ABANDONMENTS

SENATOR ANDREWS: Does DOT anticipate a need for an expertise that traditionally has not been needed to resolve the more complex types of abandonment applications recently submitted and anticipated?

ANSWER: No. A high level of expertise is possessed by ICC staff who would transfer to DOT pursuant to ICC sunset, as well as by existing DOT personnel. Moreover, while some recent abandonment cases may represent complex transactions, we believe that the total volume of abandonments cases will be smaller in the future. Thus, the total level of effort necessary to handle these cases should remain manageable after ICC sunset.

SENATOR ANDREWS: ICC's Office of Special Counsel has traditionally responded to requests for information and counseling from communities and rail users facing proposed abandonments. What mechanism will DOT use to be responsive to the increasing number of requests for guidance in utilizing railroad abandonment protest procedures?

ANSWER: We anticipate that this function will be maintained at DOT in our Office of Community and Consumer Affairs, or in a similar organization within DOT. DOT currently handles a number of aviation consumer assistance functions, including liason with affected communities, and we will draw upon our experience in this area as we finalize plans for handling rail consumer assistance matters after ICC sunset.

ICC SUNSET - TRUCK REGULATION

SENATOR ANDREWS: Can DOT provide reasonable assurance that the insurance requirements of the 1980 Motor Carrier Act can be enforced without requiring that DOT be notified of cancelation of existing coverage?

ANSWER: While approximately 33,000 motor carriers are subject to ICC insurance procedures today, a far larger number (perhaps 180,000 carriers) are subject only to DOT insurance procedures. ICC sunset would place for-hire interstate motor carriers on the same footing as other motor carriers subject to DOT's insurance regulations. While we do not necessarily foresee any problems arising from this change, we will nonetheless be working closely with representatives of the motor carrier and insurance industries to explore future options for dealing with motor carrier insurance issues. If a need for regulatory change is perceived, all interested parties would have a full opportunity to comment on any proposed rule changes.

SENATOR ANDREWS: Does DOT anticipate any expansion in its enforcement resources to enforce compliance with insurance requirements on the approximately 30,000 ICC regulated motor carriers for which it would acquire responsibility if ICC were sunsetted?

ANSWER: DOT is working to ensure that enforcement of safety and insurance requirements for all carriers is done as efficiently as possible. As part of our overall responsibilities in these areas, we will be working with motor carrier and insurance industry representatives to explore options for effective insurance enforcement with respect to for-hire interstate carriers.

SENATOR ANDREWS: If the ICC's power to grant operating authority is abolished, it will no longer be able to use this power to enforce compliance with DOT's safety standards. Does DOT anticipate any expansion in its enforcement activity to compensate for the loss of ICC's enforcement role?

ANSWER: Historically, the ICC has only rarely used its power to revoke a carrier's operating authority to enforce safety standards. Consequently, we do not believe that the loss of this particular ICC function will have a significant impact on the level of motor carrier safety or DOT's safety enforcement activities.

Management Training School

Senator Andrews: Please provide the Committee with detailed scoring, by category, of each offeror's proposal.

Answer: The following chart reflects the evaluation, as requested:

Management Training School
SEB Best and Final Evaluation

Offeror	Tech Score	Tech Rank	Offered Price (In Mil)	Eval Price (In Mil)	Business Management
Southern Illinois University	823	1	$103.8	$71.2	Marginal
University of North Dakota	813	2	64.3	47.1	Superior
Yarco Realty Company	800	3	117.0	80.4	Satisfactory
Kathleen Wyatt Nicholson	787	4	71.3	46.9	Satisfactory
Wichita State University	776	5	56.0	42.0	Superior
Embry-Riddle Aeronautical University	770	6	47.3	34.2	Excellent
Ira T. Finley	730	7	44.9	35.4	Satisfactory
Oklahoma City University	663	8	43.5	31.4	Marginal
University of Oklahoma	611	9	24.9	17.7	Excellent
Western Illinois University	555	10	31.1	24.8	Excellent

SENATOR ANDREWS: Did the evaluation include a comprehensive review and analysis of the financial stability and financial ability contained in Embry-Riddle's most recently audited financial report?

ANSWER: Yes. The Source Evaluation Board evaluated all offers on their financial capabilities, including their ability to adequately finance contract operations. The offerors were required to submit financial information to prove adequate financing for this facility, including but not limited to, current balance sheets, profit and loss statements, and any related reports. Embry-Riddle's most recently audited financial report was submitted and was evaluated by the board.

ST. LAWRENCE SEAWAY

SENATOR ANDREWS: The Army Corps of Engineers study on the capital needs of the St. Lawrence Seaway Corporation said that approximately $35 to $40 million would be needed to do major concrete repair and replacement in the Eisenhower and Snell Locks. How do you suggest that the United States pay for this work?

ANSWER: We have not yet made any final decision on the extent of the need for repair to the locks. When we have made that determination, we will address the funding question. To the extent feasible, we would prefer to fund repairs from the toll revenues, although we recognize that this may not be fully practicable.

SENATOR ANDREWS: Has the Department done its own analysis on the need for this work? If not, why not? If so, what were the results of that analysis?

ANSWER: The St. Lawrence Seaway Development Corporation is in the process of an engineering review of the need for, and cost of, repairs. When that review is complete, we will make our plans as to the action that we will undertake.

SENATOR ANDREWS: Does the Department feel that a joint departmental effort is necessary at this time to deal with Seaway problems?

ANSWER: We do not see an immediate need for State Department involvement. That would be required if discussions with Canada reached a point where a formal exchange of notes between governments was required.

SENATOR ANDREWS: For the second year in a row the United States is foregoing its historical share of receipts in order to keep tolls down. Does the Department have a short- or long-range strategy on how to keep tolls down? If so, what is it? Please elaborate.

ANSWER: The Department is actively working to keep Seaway tolls down. The Seaway Corporation has held U.S. tolls on the Montreal to Lake Ontario section of the Seaway at the same level since the 1983 shipping season. The toll freeze was possible because the Seaway Corporation's bonded construction debt was eliminated by Congress, thereby allowing the Corporation to use all toll revenues for operations. In addition, the Corporation has instituted management initiatives which have produced cost savings.

The key to keeping tolls down is to increase use of the system. This will provide greater toll revenues without raising the per ton charge to use the system. To this end, the Seaway Corporation has established a trade and traffic development program to promote the use of the Seaway system. For example, the Corporation sponsored trade missions to Europe in 1985 and 1986; established trade and traffic development offices in Toledo, Ohio, and Deerfield, Illinois; actively campaigned for a larger share of government-sponsored cargo for Great Lakes Ports; and initiated numerous outreach programs to find new users for the Seaway system.

SENATOR ANDREWS: If there is no strategy in place, don't you think that it is time to start addressing this problem? If not, why not?

ANSWER: The Department believes that the Seaway's strategy of cost control, coupled with trade promotion, is an excellent strategy for holding down U.S. tolls on the Seaway.

UMTA - NEW STARTS

SENATOR ANDREWS: On March 11, 1986, the Comptroller General of the United States ruled that $223.6 million or Urban Mass Transportation Administration (UMTA) new start funds were improperly being impounded. What is the status of those funds? Have they been made available for obligation? If so, how much of these funds have been obligated and to whom?

ANSWER: In light of the March 11th GAO ruling, we have asked our General Counsel to clarify whether DOT is required by the GAO ruling to release the $223.6 million. The only new start funding exempted from our rescission request is $62.2 million for Santa Clara and $8.6 million for Portland. We have full funding contracts with these two cities.

SENATOR ANDREWS: For those funds not obligated to the cities originally designated, please provide the Committee a brief description on the status of the funds and why they haven't been released.

ANSWER: As mentioned in response to your previous question, our General Counsel is clarifying whether DOT is required by the GAO ruling to release the $223.6 million. Pending that decision, none of the funds are being released for obligation to any of the cities involved.

SENATOR ANDREWS: Mr. Burnley, some of these new start funds were earmarked for cities that also received bill and report language in the Continuing Appropriations Act for fiscal year 1986. Language was included requiring the Secretary to enter into a full funding contract for Seattle, Los Angeles and Miami for the purpose of new start construction.

In summary, how close is the Department in entering a full funding contract with Seattle? What are the outstanding issues that still need to be resolved with Seattle?

ANSWER: Section 320 of the FY 86 DOT appropriations Act requires the Secretary to commence and complete negotiations on full funding contracts for projects in Seattle, Miami, and Los Angeles within 90 days of enactment of the Act. That responsibility has been delegated to the UMTA Administrator who, along with his staff, have been conducting these negotiations.

With respect to the Seattle contract, several issues remain outstanding. First, a shortfall in funding to complete the project exists in the amount of $151,900,000. The UMTA draft contract provides that Seattle Metro will either: 1) provide local funds to pay for this shortfall and complete the Project; or 2) repay the Federal government any and all funds provided by the Federal government for the Project. In addition, the draft provides that Metro will have to make this choice no later than December 31, 1986. Second, the $23,590,000 earmarked in the FY 86 DOT Appropriations Act for the Seattle bus tunnel is subject to the President's February 5, 1986, rescission message. Therefore, those funds cannot be made available for obligation until April 14, 1986, at the earliest; the date on which the rescission expires if it is not accepted by Congress. Finally, because of this restraint on the UMTA Administrator's ability to obligate these FY 86 funds, he has expressed a willingness to extend negotiations beyond March 19, 1986, the date by which negotiations were to have been concluded.

SENATOR ANDREWS: In summary, what is the status of the Department's negotiations with Los Angeles on a full funding contract? What are the outstanding issues that still need to be resolved with Los Angeles?

ANSWER: Several issues remain outstanding. First, a shortfall in funding to complete the project exists in the amount of $203,168,601. The UMTA draft contract sent to Los Angeles on March 18 recognizes that a shortfall in funding exists and provides that the Los Angeles County Transportation Commission will commit to pay for this shortfall with local funds until and unless the Congress reauthorizes and appropriates funds for the UMTA program. Second, the $96,657,000 earmarked in the FY 86 DOT Appropriations Act for the Los Angeles project is subject to the President's February 5, 1986, rescission message. Therefore, those funds cannot be made available for obligation until April 14, 1986, at the earliest; the date on which the rescission expires if it is not accepted by Congress. Third, there are two major environmental issues facing this project. Both of these issues are related to the existence of methane gas in the area of proposed construction. One of these issues must be resolved before a contract can be executed. UMTA must determine whether construction can proceed on the first 4.4 mile segment of the Metrorail system without a Supplementary Environmental Impact Statement being completed. The SCRTD has submitted a complete factual and legal report to UMTA concerning this issue. UMTA legal and technical staff are currently in the process of reviewing it and preparing a complete legal and technical evaluation of UMTA's position. It is expected that UMTA's effort will be completed in the month of April. Finally, because of the restraint on the UMTA Administrator's ability to obligate FY 86 funds, he has expressed a willingness to extend negotiations beyond March 19, 1986, the date by which negotiations were to have been concluded.

SENATOR ANDREWS: What is the status of Miami's full funding contract? What are the outstanding issues that still need to be resolved with Miami?

ANSWER: There are several major issues remaining outstanding on this project. First, the draft contract submitted to Dade County officials on March 18, 1986 does not contemplate that Federal funds would be obligated, at this time, if a document is executed between Dade County and UMTA. The draft merely recognizes that Congress has appropriated funds for the UMTA discretionary account and has earmarked funds for the Miami project. Second, the issue of completion of an Environmental Impact Statement is closely linked to UMTA's inability to obligate funds at this time. It is UMTA's position that it may neither execute a full funding agreement nor obligate, or otherwise announce an intention to obligate, funds for the project until after the completion of an Environmental Impact Statement and the issuance of a Record of Decision by UMTA. It is expected that the environmental process will not be completed until early 1987. Third, a shortfall in funding to complete the project exists in the amount of $72,134,000. Any formal agreement between UMTA and Dade County would have to provide for a local commitment to this shortfall until and unless Congress passes legislation reauthorizing and appropriating funds for the UMTA discretionary program. Dade County intends to use a dedicated source of funds to cover the shortfall, but the dedicated source has not yet been authorized and will not go before the electorate until November 1986. Fourth, the $36,366,000 earmarked in the FY 86 DOT Appropriations Act for the Miami project is subject to the President's February 5, 1986, rescission message. Therefore, those funds, cannot be made available for obligation until April 14, 1986, at the earliest; the date on which the rescission expires if it is not accepted by Congress. However, as mentioned above, the lack of a completed EIS precludes obligation of these funds at that time. Finally, because of the restraints on the UMTA Administrator's ability to obligate funds, he has expressed a willingness to extend negotiations beyond March 19, 1986, the date by which negotiations were to have been concluded.

SENATOR ANDREWS: Do you believe that any of these negotiations will conclude shortly? If so, which ones?

ANSWER: When the negotiations were suspended on March 21 UMTA had begun discussions with Los Angeles concerning the UMTA March 18 draft. Most issues had been resolved, and it would be expected that the completion of negotiations could be expedited. Seattle apparently is prepared to respond to the UMTA March 18 draft whenever the suspension is lifted. Again, it is expected that these negotiations can be completed expeditiously. Once the suspension is lifted, negotiations with Miami can take place. However, as mentioned above, a contract cannot be executed until the environmental process is completed.

SENATOR ANDREWS: Does a situation exist that at this point in the process does not appear resolvable? Is so, which one(s)? Why? Please elaborate.

ANSWER: The key issue with respect to the Seattle and Los Angeles contracts is the ability of the local governments to provide local funding for the shortfalls that exist for each of those projects. We have presented draft contracts which we believe are reasonable in that they recognize the reality that the funding to complete these projects does not exist at this time. If this important issue can be resolved for these two projects, full funding contracts should be able to be executed.

Miami also faces the same problem. A shortfall in funding in the amount of $72.1 million exists. Miami, however, has a more significant obstacle to overcome. The Federal government cannot obligate funds or express an intention to commit to a project of this magnitude until the environmental process as outlined in the National Environmental Policy Act (NEPA), and the UMTA environmental regulations is complete. Dade County has only just recently begun the environmental process on the extensions to the Metromover and until the process is complete, UMTA can neither obligate funds for nor express an intention to commit funds to the Project.

SENATOR ANDREWS: If the Administration's Mass Transit Authorization Bill were enacted, how much could each of the cities expect under the transit portion of the Block Grant proposal?

ANSWER: Using the existing Section 9A formula, the apportionments for the three cities in question would be as follows:

Los Angeles	- $64,691,649
Miami	- $10,814,950
Seattle	- $15,659,153

SENATE ANDREWS: Would there be any restrictions on these cities or any other cities from using block grant funds for construction of "new starts"?

ANSWER: No, there would be no restrictions. States and localities could undertake new starts projects if they felt this was their most pressing transportation need. The choice is theirs.

SENATE ANDREWS : If the Administration's authorization bill was not enacted for fiscal year 1987 and Congress provided funds for "new starts," does the Department intend to again request the rescission or deferral of these funds? Is there some scenario under which the Administration would not use the rescission or deferral process for stopping new start obligations?

ANSWER: If an authorization bill is passed that continues the discretionary capital grants program and Congress again earmarks those funds, I do not envision UMTA requesting deferral or rescission of those funds. UMTA continues to feel that discretionary grants for new starts should be made on the basis of the merits of the projects and would welcome the opportunity to cooperate with the Congress in evaluating the merits of the various projects.

However, before funds would be obligated for new starts, UMTA would have to be assured that all applicable requirements had been met. In particular, UMTA would insist that funds are available under the new authorization and locally to complete the project.

Salaries and Expenses

Senator Andrews: In order to accommodate FY 1986 Gramm-Rudman-Hollings sequestrations, your budget justification indicates a 4.3 percent reduction in funding for salaries and expenses. In what specific object classification areas were reductions made? Provide for the record a salaries and expenses object classification for FY 1986 pre- and post sequester.

Answer: As indicated in the following chart, the reductions were made in all object classifications with the exception of standard level user charges (SLUC) for space rental.

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

SALARIES AND EXPENSES
OBJECT CLASSIFICATION (in thousands of dollars)

		FY 1986 Enacted	FY 1986 After Sequestering
11.0	Personnel Compensation		
11.1	Full-time permanent	31,292	30,111
11.3	Other than full-time permanent	1,497	1,484
11.5	Other personnel compensation	555	565
11.8	Special personal services payments	143	143
11.9	Sub-total Personnel Compensation	33,487	32,303
12.1	Personnel benefits: Civilian	3,755	3,626
21.0	Travel and transportation of persons	650	622
22.0	Transportation of things	9	4
23.1	Standard level user charges	3,671	3,671
23.3	Communications, utilities, and miscellaneous charges	1,278	1,173
24.0	Printing and reproduction	962	912
25.0	Other services	10,543	9,873
26.0	Supplies and materials	245	209
31.0	Equipment	200	50
	Total - S&E	54,800	52,443

SENATOR ANDREWS: Are you planning a reduction-in-force or furloughs in FY 1986 to achieve the required Gramm-Rudman-Hollings sequestration?

ANSWERS: We generally anticipate being able to operate during FY 1986 without the need for a reduction-in-force or furlough. This projection is based on limiting funds for non-mandatory activities in the areas of contracts and travel. Additionally, we will continue the practice started in November

1985 of having the Deputy Secretary approve all hiring from outside of the OST.

It should be noted, however, that our assumptions are based on projected attrition rates. We will continue to carefully monitor our attrition to see if a furlough or reduction-in-force is necessary during the latter part of the year.

Senator Andrews: Why does FY 1987 funding for salaries and expenses increase by 7.8 percent (from $52.4 million to $56.5 million) from the FY 1986 post sequester funding at the same time as full-time equivalent employment decreases from 743 to 717, and the budget once again proposes elimination of Essential Air Service?

Answer: While the proposed elimination of the Essential Air Service program reduces the FY 1987 Salaries and Expenses request by an estimated $1.4 million and 26 FTE's, there are increases in other areas which result in the $4.1 million difference between FY 1986 After Sequestering and the FY 1987 estimate.

Increases in cost items that are uncontrollable include: a 52 percent increase (or $1.9 million) in the General Services Administration's charge rate for building space rental; $575,000 for normal salary within grade increases; $629,000 for MBRC contracts; and $316,000 for administrative support and other contractual services. There is a reduction in travel costs of $21,000.

In addition, other increases are in response to new Congressional mandates. These include: $1.65 million in the Office of Commercial Space Transportation, with $1.45 million of this amount for research and development, and $400,000 for automation of the tariff filing system, a function transferred to OST from the Civil Aeronautics Board.

POSITIONS

Senator Andrews: Why does the budget show 781 full-time positions this fiscal year, when last year's request was 713 plus 43 for Essential Air Service added by Senate Report 99-152. Which offices were increased and why?

Answer: The 781 positions in FY 1986 is the figure _before_ sequestering and includes 27 positions from the Transportation Planning, Research and Development appropriation. Last year's request for 713 positions did not include 28 positions listed separately under the TPR&D request. Adding these to the 43 Essential Air Service positions restored by Senate Report 99-152 would total 784. Our figure for positions in FY 1986 _after_ sequestering is 750 which includes 26 positions for research and development.

Senator Andrews: Provide a comparison of FY 1986 and 1987 positions by office, explaining decreases and increases.

Answer: The following chart reflects the distribution of positions by office within OST:

Office	FY 1986 After Sequestering	FY 1987 Estimate
General Counsel	115	115
Policy	184	182
Budget and Programs	42	42
Governmental Affairs	56	54
Administration	177	173
Public Affairs	31	30
Secretarial Offices	145	113
S-1 (Secretary)	(14)	(14)
S-2 (Deputy Secretary)	(10)	(10)
S-10 (Executive Secretary)	(23)	(23)
S-20 (Appeals Board)	(5)	(5)
S-30 (Civil Rights)	(24)	(24)
S-40 (Small & Disadvantaged Bus.)	(14)	(14)
S-50 (Commercial Space)	(9)	(9)
S-60 (Essential Air Service)	(34)	(0)
Regional Reps.	(12)	(12)
Total Positions	750	709

The only increase from FY 1986 to FY 1987 is in the Office of Commercial Space Transportation, with 2 positions reallocated from the Policy Office for research and development. All other decreases are associated with the termination of the Essential Air Service program.

AIRLINE ECONOMIC FITNESS

SENATOR ANDREWS: How many persons currently comprise the Department's Airline Economic Fitness Office? How does this compare to the former Civil Aeronautics Board (CAB) staffing level?

ANSWER: There are 16 Department staff members that work on airline fitness cases. However, due to other work responsibilities, a total of only 9 staff-years are spent on these cases. This compares to approximately 17 staff-years at the Civil Aeronautics Board (CAB) shortly before that agency's "sunset" in December 1984. Although this reflects a substantial decrease in staff resources, part of it is due to procedures adopted by the Department for handling these cases. Thus, it was the CAB's policy to set the majority of new fitness cases for oral evidentiary hearing before Administrative Law Judges, necessitating additional staff resources. The Department has adopted a policy of setting only those cases for hearing that involve substantive issues that cannot be resolved on the written record. Only one such case has been set for hearing since the Department assumed this responsibility.

SENATOR ANDREWS: What is the Office's yearly workload? How many new domestic carriers were certified in 1985?

ANSWER: At the beginning of 1985, the Department had a backlog of 54 initial or continuing fitness cases that had not been completed by the Civil Aeronautics Board prior to its sunset. During the year, an additional 104 cases were received. By the end of 1985, 37 carriers had been certificated, 14 had been found fit as commuters, and another 47 cases had been completed (i.e., dismissed, denied, or continuing fitness cases concluded).

SENATOR ANDREWS: What coordination with Federal Aviation Administration (FAA) is maintained to ensure that new carriers receive the proper level of air carriers inspector scrutiny?

ANSWER: It is the specific responsibility of the Federal Aviation Administration (FAA) to determine the level and number of inspections that must be performed on each air carrier to ensure the safety of that carrier's operation. The Office of the Secretary (OST) does, however, advise the FAA whenever it receives an application for economic authority by a new carrier or expanded authority by an existing air carrier to ensure that the FAA is aware of these proposed operations, and of any new or additional safety authority that these carriers may need. OST also conditions the effectiveness of all new authority it issues on the carrier's receipt of the required FAA authority to conduct the proposed operations. This ensures that no air carrier can commence new operations without having received necessary FAA inspections and approval. In addition, where information comes to light at OST which may reflect adversely on a carrier's operations, such as signs of deteriorating financial position or unusual increases in consumer complaint levels, OST notifies the FAA of the need for additional surveillance of the carrier's operations.

AIRLINE MERGERS

SENATOR ANDREWS: What review has the Department of Justice conducted of the competitive implications in the Washington-New York-Boston market if the Eastern/Texas Air merger is approved?

ANSWER: Texas Air Corporation (TAC) applied for expedited approval of its use of a voting trust to acquire more than 10 percent of Eastern's common stock.

The Department of Justice urged DOT, in its filing on the voting trust application, not to approve the trust until competitive aspects of the merger were examined. The basis for their argument was that if the merger is ultimately not approved, the immediate divestiture of Eastern stock by TAC would harm Eastern's long term viability. DOJ also argued that approval of the voting trust itself could be anti-competitive. We disagreed with DOJ's contention and approved the voting trust. MBANK of Houston is the independent trustee who will vote the trust according to the provisions of the DOT order approving the trust.

Among comments received on the merger application, many were concerned about the competitive impacts in the Northeast Corridor, particularly because of slot limitations at Washington National and LaGuardia Airports. Six air carriers (People Express, Pan Am, Delta, TransStar, Presidential and US Air) and two states' attorney generals (New York and Massachusetts) have requested evidentiary hearings. The Justice Department proposed a schedule of inquiry that would end on May 5, 1986. At that time, DOJ would submit its conclusions about whether DOT should begin evidentiary hearings.

The Department of Transportation, in its order of April 8, 1986, decided to conduct a full evidentiary proceeding of the serious competitive issues of the proposed merger raises in the Northeast Corridor.

SENATOR ANDREWS: Summarize for the record the status of other pending or complete airline merger cases, indicating the type proceeding used for each.

ANSWER: The Department currently has under consideration applications for approval of three proposed airline mergers--NWA, Inc.'s acquisition of Republic Airlines; Texas Air Corp.'s acquisition of Eastern Airlines; and Trans World Airlines, Inc.'s acquisition of Ozark Airlines. Following is a summary of the cases now pending before the Department.

NWA-Republic Acquisition. NWA, Inc., the parent of Northwest Airlines, and Republic Airlines, Inc. jointly applied for approval of NWA's proposed acquisition of Republic. NWA and Republic individually requested approval of voting trust arrangements for the mutual acquisition of each other's stock in excess of 10 percent of the totals outstanding, which the Department approved. The Department of Justice filed comments in opposition and requested disapproval of the merger. The Department is preparing an order setting the case for oral evidentiary hearing with very tight deadlines. The Department must reach a final decision by July 31, 1986.

Texas Air Corp.-Eastern Acquisition. Texas Air Corp., the parent of Continental Air Lines and New York Air, applied for approval of a voting trust arrangement for any Eastern Air Lines stock, in excess of 10 percent of the total outstanding, that it might acquire. It also applied jointly with Eastern for exemption, or approval, of its proposed acquisition of Eastern. The Department approved Texas Air Corp.'s acquisition of up to 51 percent of Eastern's stock, provided that the stock in excess of 10 percent be placed in a voting trust controlled by an independent trustee. Several interested persons opposed the joint applicants' request for expedited action on their application and asked that the case be set for hearing. The Department denied the joint applicants' request for an expedited procedural schedule. We are preparing an order instituting an oral evidentiary hearing in this case. The Department must reach a final decision by August 29, 1986.

TWA-Ozark Acquisition. Trans World Airlines, Inc. applied for approval of a voting trust arrangement for any stock of Ozark Holdings, Inc., the parent of Ozark Airlines, in excess of 10 percent of the total outstanding, that it might acquire pending approval of its acquisition of Ozark. The Department approved TWA's acquisition of up to 51 percent of Ozark Holdings' stock, provided that the stock in excess of 10 percent be placed in a voting trust controlled by an independent trustee. Subsequently, TWA filed a joint application with Ozark Holdings requesting expeditious approval of the proposed acquisition using show-cause procedures. TWA stated that, for the foreseeable future, it intends to operate Ozark Airlines as a separate entity. Comments on the application are due on April 4, 1986. The Department has until September 30, 1986, to reach a final decision.

Since assuming responsibility for the antitrust functions formerly held by the Civil Aeronautics Board, the Department has reviewed and acted on seven other airline merger cases. The Department granted the applicant's request for an exemption in two cases, i.e., People Express' acquisition of Britt Airways and Frontier Airlines. We instituted show-cause proceedings which resulted in Department approval of the proposed control relationships in three cases, i.e., Piedmont-Empire Acquisition Show Cause Proceeding, Horizon-Cascade Acquisition Show Cause Proceeding, and Southwest Airlines-Muse Air Acquisition Show Cause Proceeding. We set the Texas Air-TWA Acquisition Case for oral evidentiary hearing, which we terminated when the applicants terminated their merger agreement and requested dismissal of their application. We dismissed the remaining case, i.e., Texas Air-Frontier Acquisition Case, at the applicant's request, before the initial Department decision on procedures was due.

ESSENTIAL AIR SERVICE ELIMINATION

SENATOR ANDREWS: In response to a question asked at the February 19th overview hearing, the Subcommittee is informed that:

-- of the 108 subsidized communities (excl. Alaska), only 24 would continue to receive scheduled air service.

-- of the remaining 83 communities, 56 are over 75 miles from a hub airport. 21 communities are over 150 miles from the nearest hub.

-- the Department has not undertaken any in-depth analysis of alternative transportation that will be available at these 83 communities which stand to lose service.

Rather than abandon these communities, some of which, admittedly, have low enplanements, why doesn't the Department meet with those states transportation or aeronautical commissions to explore a subsidy alternative? What happens to the goods and people in those communities? Shouldn't the Department have some answers before the program is terminated?

ANSWER: As we indicated previously, enplanement levels at these communities are generally extremely low, and the need for subsidy is very high, particularly on a per passenger basis. Moreover, there is little if any hope that these points will ever be able to support air service on their own without subsidy. In view of these circumstances, our position is that federal subsidy for transportation should be discontinued, and we would not propose to explore alternative subsidy programs. Furthermore, we note that the essential air service program under section 419 of the Airline Deregulation Act has already provided a transition period for small communities designed to enable them to adjust to deregulation and to develop traffic and service that will be able to support itself without federal assistance. At the end of this transition period, these communities were to rely directly on the marketplace to meet their transportation needs. There is no basis for considering another transition period of federally-supported transportation.

SENATOR ANDREWS: The budget estimates FY 1986 obligations for essential air service grants of $36.5 million. This amount is about $4 million less than was estimated last year as necessary. What explains the decrease?

ANSWER: In the past year a number of subsidy rates have been renegotiated for amounts lower than the previous rates. For example, Alaska Airlines' rate for service to Cordova, Gustavus, Petersburg, Wrangell and Yakutat, Alaska, was reduced from $3,572,778 to $1,973,534, a decline of $1,599,244. Average subsidy per point has declined from $243,065 in February 1985 to $179,587 in February 1986. Also, some use-it-or-lose-it tests have been completed and points which did not meet the traffic test levels were suspended from the program.

SENATOR ANDREWS: What are the current obligations so far in FY 1986? Provide a FY 1985-1986 breakdown by state.

ANSWER: Obligations for normal subsidy the first five months are $10,100,565 and for hold-in subsidy, $391,596. Annual subsidy rates effective as of February 1, 1986, total $27,143,119. A breakdown by state is provided in the accompanying table. The total of the table differs slightly from the foregoing total because of rounding differences required when allocating rates by point. We estimate that $4 million may be required for hold-in subsidy and $4.5 million for the settlement of an outstanding Section 406 subsidy claim.

SECTION 419 SUBSIDY, BY STATE

February 1, 1985 and 1986

	Annual Subsidy	
State	February 1, 1985	February 1,1986
ALABAMA	$232,986	$111,409
ALASKA	4,560,169	2,877,849
ARIZONA	716,113	624,339
ARKANSAS	998,610	420,005
CALIFORNIA	3,680,465	1,869,554
COLORADO	271,250	237,338
GEORGIA	650,067	654,273
IDAHO	158,705	158,705
ILLINOIS	261,195	632,384
INDIANA	264,891	286,907
IOWA	1,266,253	962,778
KANSAS	1,898,750	1,661,366
KENTUCKY	291,243	0
MAINE	276,203	209,092
MICHIGAN	1,186,252	969,613
MINNESOTA	836,515	711,454
MISSISSIPPI	867,636	114,681
MISSOURI	424,991	424,991
MONTANA	1,724,513	1,618,750
NEBRASKA	2,285,445	2,403,139
NEVADA	607,715	591,457
NEW MEXICO	742,677	758,496
NEW YORK	1,029,300	1,029,300
NORTH CAROLINA	402,229	294,119
NORTH DAKOTA	1,029,099	947,254
OKLAHOMA	676,422	676,422
OREGON	1,489,396	317,971
PENNSYLVANIA	83,129	0
SOUTH DAKOTA	837,696	844,529
TENNESSEE	125,239	299,715
TEXAS	793,545	794,427
UTAH	464,139	396,393
VERMONT	228,260	155,232
VIRGINIA	697,541	518,960
WASHINGTON	540,911	469,491

State	Annual Subsidy February 1, 1985	Annual Subsidy February 1,1986
WEST VIRGINIA	$1,185,135	$1,246,139
WISCONSIN	443,237	238,491
WYOMING	410,972	410,972
TOTAL, 48 STATES	30,078,721	24,060,146
TOTAL, ALASKA	4,560,169	2,877,849
TOTAL, HAWAII	0	0
TOTAL, 50 STATES	34,638,890	26,937,995
TOTAL, U.S. TERRITORIES	604,424	205,134
GRAND TOTAL	35,243,314	27,143,129

SENATOR ANDREWS: What was the expected obligation rate in FY 1987 upon which your original $38 million request to Office of Management and Budget (OMB) was based? Did this include the $7.6 million unobligated balance at the end of FY 1986?

ANSWER: The original Office of Essential Air Service request was for $40 million, which was based on the current spending rate at the time it was submitted. This was reduced internally to $38 million. It was assumed that a portion of the carryover from FY 1986 would be available although it was not known at the time how much. These estimates were made in mid-1985 and there were various proposals to use the carryover for other purposes.

SENATOR ANDREWS: Provide for the record a program and financing breakdown of normal and hold-in subsidies for FY 1985-1986, and a projection for 1987, assuming continuation.

ANSWER: The following table shows actual section 419 obligations for FY 1985, estimated obligations for FY 1986, and an estimate for FY 1987.

Section 419 Subsidy Obligations ($Thousands)

Fiscal Year	Hold-in	Normal	Total
1985	$2,058	$32,891	$34,949
1986 1/	4,000 2/	32,500	36,500 3/
1987 1/	4,000	28,000	32,000

1/ FY 1986 and FY 1987 obligations are estimates. In addition, a $4.5 million past-period Section 406 subsidy claim will have to be paid out of Office of The Secretary funds.

2/ Because there are so many variables involved, it is impossible to project accurately the amount of hold-in subsidy in any year. We have consistently been estimating about $4 million annually. The amount of hold-in subsidy depends on how many and when carriers file notice to leave points, how long they are held in, how promptly claims are filed, and how long it takes for the Department to audit and process claims.

3/ Based on current obligations, it now appears likely that not all of the $36,500 estimated for FY 1986 will be obligated so there will probably be some additional carryover to FY 1987.

FEDERAL RAILROAD ADMINISTRATION - REDEEMABLE PREFERENCE SHARES

SENATOR ANDREWS: The Continuing Appropriations Act for Fiscal Year 1986 contained bill language providing $33.5 million for the rail redeemable preference share program. What is the status of those funds?

ANSWER: In the Conference Report (No. 99-450) accompanying the Continuing Appropriations Act for Fiscal Year 1986, Congress designated the section 505 funding for the following projects:

Amount ($ Millions	Project
$ 1.9	Columbus and Greenville Railroad
8.0	Gulf and Mississippi Railroad
12.5	Miami Commuter Rail
2.6	Ann Arbor Railroad
3.0	Bangor and Aroostook Railroad
5.5	Chicago and North Western Railroad
$33.5	Total

While no formal applications have been submitted, FRA has met with several of the applicants to discuss the statutory requirements and findings that applicants must need in order to be eligible for the funding.

The statutory authority to obligate section 505 funds expired on September 30, 1985, and there is a question as to the Federal Railroad Administration's ability to legally transfer the appropriated funds. The Comptroller General has been been asked to give us an interpretation on whether the language included in the Continuing Appropriations Act would be sufficient to allow us to receive and obligate the funding. The Gramm-Rudman-Hollings Act imposed a 4.3 percent reduction totaling $1.441 million for the designated projects. Also, the President's Fiscal Year 1987 Budget includes a proposal that the remaining $32.059 million of appropriated funds be rescinded. If the rescission proposal is not acted on by Congress by April 15, 1986, the funds will become available for obligation provided the Comptroller General's decision is favorable.

[NOTE: On April 24, 1986, the Department received a decision from the Comptroller General of the U. S. which found that "fiscal year 1986 funds appropriated to the Treasury Secretary to purchase Fund Anticipation Notes used to finance the Department of Transportation's Redeemable Preference Share Program, are available to buy Notes and thus continue the rail improvement projects financed under the Program in 1986, despite the expiration of the Program's organic authority on September 30, 1985."]

SENATOR ANDREWS: It appears in correspondence from the General Counsel to the Comptroller General, March 11, 1986 that there is doubt regarding the availability of these funds. Why?

ANSWER: The correspondence from the General

Counsel seeks the Comptroller General's opinion as to the availability for obligation of funds appropriated for the redeemable preference share program. An FRA legal opinion of February 3, 1986 expressed the view that the Continuing Appropriations Act for Fiscal Year 1986 contains no specific authorization for the Secretary of Transportation to issue "fund anticipation notes." (Such authorization expired on September 30, 1985, under the terms of title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended). Thus, FRA believes that the $33.5 million appropriated to the Secretary of the Treasury cannot be utilized by the Secretary of Transportation for obligation under the redeemable preference share program.

In light of the uncertainty surrounding the availability of these funds and our concern that the Department act within the scope of the law, we requested a legal opinion from the Comptroller General on the matter.

SENATOR ANDREWS: What purpose is served by the February 3, 1986, memo from the Chief Counsel of FRA to the Administrator? Who requested this memo? Why was it necessary?

ANSWER: Following enactment of the FY 1986 Department of Transportation and Related Agencies Appropriations Act (1986 Act), FRA staff reviewed the 1986 Act to determine its impact on the Redeemable Preference Share Program (Program). Issues were raised regarding the availability of funds under the appropriation because of the Program's prior statutory termination, and the Administrator requested a formal opinion from the Chief Counsel to define his authority in continuing the Program.

SENATOR ANDREWS: If there was doubt regarding the availability of funds for this Program why did it take until February 3, 1986, for this correspondence to take place?

ANSWER: The 1986 Act was signed by the President on December 19, 1985, the date of the Conference Report on H.R.J. Res. 465. It was not until initial inquiries were made to FRA by prospective applicants in January that FRA counsel found a problem with the language. Committee was informally contacted regarding the possibility of a language problem. The additional time was expanded by FRA to research, analyze and draft the legal issues contained in the Chief Counsel's opinion.

SENATOR ANDREWS: Why didn't the Department officially contact the Appropriations Committees to ask about the "intent" of the language?

ANSWER: FRA never questioned Congress's intent to fund these projects. However, the Chief Counsel concluded that the language as enacted failed to provide the appropriate mechanism for making those funds available, since authority for the program expired on September 30, 1985.

SENATOR ANDREWS: If funds were provided and the Secretary was authorized to expend the proceeds from the sale of such notes, why is it the Chief Counsel's opinion that ".... no funds are currently available under the 505 Program for new obligations"?

ANSWER: Although the 1986 Act authorized the Secretary to expend the proceeds from the sale of notes to the Treasury, the Chief Counsel did not believe that Congress renewed the statutory authority (which expired on September 30, 1985) of the Secretary of Transportation to sell and the Secretary of the Treasury to buy the notes. See Sections 507(a) and 509(a) of the Railroad Revitalization and Regulatory Reform Act of 1976. Consequently, the Chief Counsel concluded that there was no mechanism by which the funds appropriated to Treasury could be transferred to the Secretary, and utilized hereafter, as "proceeds" from such sales.

SENATOR ANDREWS: If a "notwithstanding provision" had been a preamble to the bill section on investment in fund anticipation notes, Department of the Treasury, Office of the Secretary, would funds be currently available under the 505 Program for new obligation?

ANSWER: The Chief Counsel does not believe the funds would be available for the following reasons. Such a "notwithstanding provision" might be acceptable to the Secretary of the Treasury to reauthorize his purchase of notes, but it could not serve to reauthorize the Secretary of Transportation to sell notes. The Secretary of Transportation's statutory authority to sell notes, contained in Section 507(a) and which expired on September 30, 1985, is separate from the Secretary of the Treasury's authority to buy such notes, as contained in Section 509(a) and which also expired on September 30, 1985. The Authority to sell, therefore, requires its own, specific renewal language.

SENATOR ANDREWS: When does the Department expect a decision from the Comptroller General?

ANSWER: In its letter requesting a legal opinion from the Comptroller General, the General Counsel requested that the opinion be provided by April 15, 1986, the approximate last day of the period governing the President's request to rescind the funds appropriated to the 505 Program.

URBAN MASS TRANSPORTATION TRANSFERRED FUNDS

SENATOR ANDREWS: In the Continuing Appropriations Act for fiscal year 1986, funds from the Urban Mass Transportation Research and Development account were transferred to other activities. What is the status of these transfers?

ANSWER: In accordance with the DOT and Related Agencies Appropriation Act, 1986 (P.L. 99-190 Stat. 1185), funds in the amount of $39,100,000 were transferred to other activities on March 14, 1986.

SENATOR ANDREWS: There has been some delay by UMTA in releasing these funds. Why?

ANSWER: The Department of Transportation Appropriations Act of 1986 contained provisions for the transfer of $39.1 million of unobligated balances from UMTA's Research, Training and Human Resources appropriations to three other Departmental agencies. UMTA had reservations on the transfer of these funds from within UMTA to projects that are clearly of a special interest nature. After a brief delay, which was without programmatic effect, the Department executed the provisions.

SENATOR ANDREWS: What is the process involved in effecting a transfer from one account to another? How long should or does this process normally take?

ANSWER: A transfer of funds is accomplished by forwarding a SF 1151, Nonexpenditure Transfer Authorization, to the Treasury Department. The form is generally prepared by the agency administering the account from which the funds are being transferred. Treasury Department procedures require agencies to cite the legal authority for the transfer, including reference to the United States Code or Statutes at Large. Generally speaking, this process takes three to four weeks after the legislation is signed by the President. However, in the case of the FY 1986 DOT Appropriations Act, the required legal references were not available until early March 1986, almost three months after the legislation was signed.

EXPENDABLE LAUNCH VEHICLES

SENATOR ANDREWS: What is the impact of the Space Shuttle hiatus on the expendable launch vehicle (ELV) industry? How are commercial payloads transported in the absence of shuttle availability? What direct role does DOT have in these arrangements?

ANSWER: The Shuttle accident highlights the risk of relying on only one launch system for access to space. Space-based commercial enterprises now recognize that they must maintain alternative access to space, and that a robust commercial ELV industry is the best means of assuring such access.

All commercial payloads except those few that require manned presence can be launched by the vehicles that will be offered by the US ELV industry. Because some of these production lines were in the process of being phased out, and now must be reactivated, production volume for commercial and foreign customers will not be available until late 1988 or 1989.

DOT has been participating in the Senior Interagency Group charged with assessing the impact of the accident and identifying appropriate recovery options to restore the nation's launch capability. The recovery strategy will henceforth recognize the need for a robust ELV capability, both governmental and commercial. DOT expects to be facilitating customers who wish to seek alternatives to the Shuttle.

SENATOR ANDREWS: Describe the current ELV licensing process. How many launches have been licensed to date? How many applications are pending? How many will be processed in FY 1987?

ANSWER: The process has two major components, Mission Review and Safety Review. Mission Review is intended to ensure that the proposed launch activity does not jeopardize the public safety, national security or foreign policy interests of the United States. In the course of completing this review, we will look at the objective of the launch and the general means by which the applicant proposes to accomplish that objective.

Safety Review is intended to ensure that public safety concerns are adequately protected throughout the launch activity itself. The Safety Review is a technical, nuts-and-bolts evaluation of an applicant's safety program, plan and procedures; its safety systems and equipment; and its safety management team.

Because of the challenges inherent in making the transition from government to commercial operation of ELV systems and the competitive environment facing US ELV firms, no launch proposals have advanced to the stage where a launch firm would need a license authorizing the actual preparation and launch of a commercial American launch vehicle. The number of launch licenses issued, however, reflects neither the planning activities of American launch companies nor the administrative or regulatory activities of the Office of Commercial Space Transportation. Launch proposals are complex packages that may take years to evolve. Regulatory guidance is provided by the Office at all stages of a firm's planning, with administrative actions (such as mission or safety approvals) made as major components of a proposal mature. When viewed from this perspective, an actual launch license is a largely formal event that, in most instances, will come at the very end of launch planning.

Insofar as the number of licensing actions taken (those reviews and approvals necessary for a license to be issued), the Office has rendered a number of these including the coordination of one launch effort (Starstruck's demonstration launch from off the coast of California), granted mission approval to Space Services, Inc. for its proposal to launch cremated remains into space, and reviewed a private launch site proposal.

SENATOR ANDREWS: The budget proposes adding two positions plus temporary consultants. What grade and responsibilities are assumed for the two positions? How many consultant workyears are budgeted, and what specific work products would they produce? How much is being spent currently on "experts and consultants"?

ANSWER: The two positions will be staffed by engineers at the GS-12/13 level. These engineers will be responsible for reviewing and evaluating the safety plans of launch or launch site applicants, inspecting licensed commercial activities, overseeing R&D efforts and developing safety standards.

One consultant workyear is budgeted in FY 1987. Consultants will assist in license reviews, R&D support, compliance actions and other technical support activities. Consultants and experts are being used in FY 1986 to assist in export license issues, preparation of the Regulatory Assessment of DOT's interim Final Rule on licensing commercial launch activities and to provide general technical support to the office. Consultant expenses for FY 1986 are not expected to exceed $50,000.

COMMERCIAL SPACE RESEARCH

SENATOR ANDREWS: Last year $250,000 was requested for FY 1986 for ELV research (funded from TPR&D). Which of the four research items found on page 56-58 of last year's justification were actually funded and in what amounts? Are they completed? Why are FY 1987 funds requested for some of the same research areas, such as range safety?

ANSWER: In FY 1986, the Office of Commercial Space Transportation received a total of $735,000 from TPR&D funds. A large portion of this money comes from carryover funds from previous years. The categories are being funded as follows:

- o Regulatory Requirements Development, Research and Alternatives Analysis: $615,000
- o International Competitiveness: $30,000
- o Industry Analysis: $70,000

- Long Term Effects of Federal Activities on ELV Commercialization: $20,000

These are ongoing studies which will continue through FY 1986 and FY 1987. Some areas, such as the regulatory and industry analysis functions, are permanent responsibilities of the office. The other two areas will continue to be funded at least through the formative stages of the new commercial industry.

Range safety appears as a recurring research area because of the scope of the technical and safety issues involved in licensing commercial space launch activities. Range safety systems are the basic means for ensuring the public's safety. We currently project that the safety research needed to support development of initial safety standards will take at least two to three years to complete.

SENATOR ANDREWS: You indicate in your budget justification that research and development activities in the area of commercial space transportation would be increased by $1.65 million in FY 1987. What specific activities would this increase support?

ANSWER: The FY 1987 increase will be used to initiate and conduct research addressing safety issues vital to an effective licensing and public safety program, identified by the office in FY 1985 and FY 1986. Areas being addressed will provide the technical basis for evaluating applicant's capability to conduct launch activities safely, and will examine among other things: the qualifications, experience and training to be required of individuals responsible for launch safety; performance, operating and testing requirements for safety hardware and software systems supporting launch activities; safety plans and procedures needed to govern launch operations; and criteria for assessing new launch site locations.

SENATOR ANDREWS: Provide specific details for research projects to be funded by the total research request. Associate these research projects with specific Department timetables, such as finalized licensing requirements, and safety regulations.

ANSWER: At this time, research needs have been defined and development of an implementation plan for the research program and acquisition process is in its final stages. Until the plan is completed and approved, it is premature to discuss specific research projects.

In order to license commercial activities, the office must have an adequate safety data base on which to base its determinations and be able to provide industry with early guidance as to the safety standards and requirements that must be satisfied in order to obtain a license. Efforts are underway to build that safety data base. Our intent is to have some safety research underway by the beginning of FY 1987 and to be in a position to propose or publish basic safety standards beginning mid FY 1988 or early FY 1989.

SENATOR ANDREWS: Given current budgetary constraints, why is the increase of this magnitude necessary at this time?

ANSWER: Although this is a time of severe budgetary constraints, public safety issues associated with commercial launch activities must be addressed. The U.S. launch industry is just emerging as a commercial activity, but the technology involved is mature. The safety issues involved in licensing launch activities are no less complex than some of those involved in aviation.

Whether licensing new launch sites or commercial launch activities at commercial or government ranges, the office must have the technical expertise, safety information and data and other necessary means for determining what safety requirements must be satisfied in order to protect the public and property.

PROGRAM, PROJECT, ACTIVITY DETAIL

SENATOR ANDREWS: Page 13 of your budget justification indicates that Transportation Planning, Research and Development will be merged with the Salaries and Expenses appropriation in FY 1987. This activity was funded at $3.349 million in FY 1986. Funding for the 3 offices that will absorb this function - Policy and International Affairs, Governmental Affairs, and the Office of Commercial Space Transportation - increase by a total of $5,019 million between FYs 1986 and 1987. What accounts for the remainder of the increase in these offices? Please elaborate.

ANSWER: The increases of $282,000 for research and development contractual support in the Offices of Policy and International Affairs and Governmental Affairs are for: research activities and studies carried out primarily through contracts with the DOT Transportation Systems Center, other Federal agencies, educational institutions, nonprofit research organizations and private firms; and enhancement of technology transfer and transportation planning functions. These increases are offset by decreases of $27,000 in personnel costs and $182,000 reallocated to the Office of Administration for support services previously funded under the TPR&D appropriation.

The most significant increase, $1.65 million, is the Office of Commercial Space Transportation, with $1.45 million of this amount for research contracts to support the Department in carrying out its regulatory, safety, environmental, licensing, policy and planning responsibilities. This increase is offset by a $50,000 decrease in the immediate Office of the Secretary, with the reallocation of research and development funds from the Science Advisor.

TRANSPORTATION PLANNING, RESEARCH AND DEVELOPMENT

SENATOR ANDREWS: The budget merges the former Transportation, Planning, Research and Development (TPR&D) activities into the overall salaries and expenses request. How do you bridge from the $3,349,000 enacted and sequestered in FY 1986, the research figure of $1,268,000 found on page 3 of the justification, and the $4,962,000 shown on the Program and Financing Schedule? Why is there no request for legislative transfer authority in FY 1986 for these funds?

ANSWER: The enacted FY 1986 TPR&D appropriation was $3,500,000. After sequestering, this was reduced to $3,349,000. Of this amount, $1,268,000 (shown on page 3) is for research and development contractual support, with the balance of $2,081,000 for salaries and related personnel costs.

The $4,962,000 represents the _enacted_ appropriation of $3,500,000 - _before_ sequestering - and the TPR&D unobligated balance of $1,462,000 available at the beginning of FY 1986 (carryover from FY 1985).

No request is being made to transfer funds in FY 1986. Funds currently appropriated to Transportation Planning, Research and Development will continue to be separate from Salaries and Expenses until the Congress approves the merging of these activities as requested in the FY 1987 budget. Unexpended balances, i.e. unobligated and obligated but unpaid, at the end of FY 1986 would be transferred to Salaries and Expenses in

SENATOR ANDREWS: The budget also requests language transferring unexpended TPR&D balances to salaries and expenses. What is the balance currently? What will it be by September 30?

ANSWER: The unexpended balance (a combination of unobligated and obligated but not paid) for TPR&D, as of February 28, 1986, is $7,099,525. The September 30, 1986 balance is estimated at $2,330,000.

SENATOR ANDREWS: Provide a summary of FY 1985-1987 TPR&D positions by office, grade, and major area of responsibility to illustrate the impact of absorption in each OST office.

ANSWER: The information follows:

TPR&D POSITIONS & GRADE BY OFFICE

	FY 1985	FY 1986	FY 1987
Office of Transportation Regulatory Affairs			
Director of Office	ES	ES	ES
Deputy Director Industry Planning	--	ES	ES
Research Analyst	15	15	15
Industry Analyst	15	15	15
Int'l Trans Specialist	--	14	14
Supervisory Economist	15	--	--
Program Analyst Officer	--	15	15
Environmental Protection Officer	--	15	15
Environmental Program Analyst	14	14	14
Trans Industry Analyst	--	12	12
Economist	14	14	14
Economist	13	--	--
Planning Analyst	14	14	14
Policy Program Analyst	11	11	11
Staff Assistant	6	--	--
Clerk Typist	6	--	--
Clerk Typist	4	--	--

Major areas of responsibility are regulatory review & analysis, safety research & analysis and environmental policy studies.

Office of Economics			
Director of Office	ES	--	--
Deputy Director for Policy	--	ES	ES
Special Assistant	15	15	15
Research Analyst	15	15	15
University Research Manager	15	15	15

	FY 1985	FY 1986	FY 1987
Trans Labor Specialist	15	15	15
Supervisory Economist	--	15	15
Supervisory Research Analyst	--	15	15
Economist	--	15	15
Economist	15	15	15
Economist	14	14	14
Statistician	15	15	15
Policy Planning Analyst	--	15	15
Program Analyst	--	14	14
Policy Analyst	--	14	14
Program Analyst	14	--	--
Program Analyst	9	--	--
Program Assistant	8	--	--
Program Assistant	8	--	--
Secretary	7	--	--
Secretary	7	--	--
Clerk Steno	5	--	--
Clerk Typist	3	--	--
Clerk Typist	2	--	--

Major areas of responsibilities are policy analysis involving all modes, economic impact studies and financial studies.

TOTAL TPR&D POSITIONS	29	26	26

TRANSPORTATION SYSTEMS CENTER

SENATOR ANDREWS: How much OST research is ongoing at TSC? In what areas and amounts?

ANSWER: Total OST research at the Transportation Systems Center is approximately $1,518,600, including carryover from previous years.

TSC is operating on $68,600 from previous contracts with the Office of the Assistant Secretary for Governmental Affairs. These funds are to assist in the solution of problems and exchange of information primarily with State and local governments, but also include responding to inquiries from universities and the private sector. Specifically, the funds are incorporated into the Technology Sharing Division of TSC which maintains a toll-free hotline for information transfer and technical assistance to state and local officials, engineers, scientists, academe, and the general public. Reports on selected topics are produced in state-of-the-art manuals as directed.

During FY 1986, TSC will provide the Office of the Assistant Secretary for Policy & International Affairs research support on the order of $850,000, including previous year carryover. TSC provides support to this office in such areas as transportation data, information and analysis, the impact of regulatory reform, industry analysis, and multi-modal safety support as set forth in further detail and supported by specific Project Plan Agreements (PPAs). This work will include consideration of institutional, economic, and technological factors.

Specific areas of effort supporting the policy office include: the International Airlines Passenger Data Program; airline data reporting and analysis; multi-modal safety support; maritime industry analysis; rail-truck competition impact studies;

measuring safety performance; the Transit Revenue Ratio Study; Maritime Regulatory and Shipbuilding Study; University Research Program; sampling survey alternatives analysis; drug use safety impact; regional air carrier industry structure; rail regulatory impact; and, Essential Air Service Program.

In FY 1986, TSC support for the Office of Commercial Space Transportation will be funded at approximately $600,000. Research will include assessing current range safety practices, analyzing safety plans and procedures, assessing risk management options, studying qualification requirements for critical safety positions and examining flight analysis procedures and flight safety systems concepts.

SENATOR ANDREWS: When will a privatization plan (for TSC) be forwarded to Congress?

ANSWER: Accomplishment of the proposed defederalization of the Transportation Systems Center (TSC) by April 1, 1987 will require intensive negotiations accompanied by studies relating to employee and facility considerations as well as the smooth transition of existing TSC workload and its contracts with outside firms. Due to language in existing appropriations legislation precluding the planning or implementing of any changes in the current federal status of TSC during the current fiscal year, studies of specific defederalization options and the means for implementation cannot commence until October 1, 1986. At that time, it is our intention to work with Congress and others to determine the appropriate means for defederalizing TSC.

STANDARD LEVEL USER CHARGES

SENATOR ANDREWS: Your budget justification estimates standard level user charges (SLUC) of $5.6 million for FY 1987, a 53 percent increase from FY 1986. At the same time, the number of full-time-permanent positions decreases by 7.6 percent. Please explain this large increase in SLUC.

ANSWER: The 53 percent increase in SLUC is due to a GSA rate increase in SLUC charges for FY 1987. We currently have an active space reduction program which will result in SLUC savings in FY 1988 resulting from decreases in FY 1987 full-time permanent positions, provided no new requirements for space develop such as ICC consolidation into the Department.

SENATOR ANDREWS: What is the cost per square foot for office space in the Nassif Building in FY 1986? What will the cost per square foot be in FY 1987?

ANSWER: SLUC charges for FY 1986 are $15.03. For FY 1987 the charges will be $22.95.

SENATOR ANDREWS: The estimated 1987 SLUC per position for the Office of the Secretary is $7,790. This compares to other Departmental agencies which are primarily housed in the Nassif Building as follows: Office of the Inspector General, $3,270; Urban Mass Transportation Administration, $3,430; Federal Railroad

Administration, $2,730; Maritime Administration, $4,600; National Highway Traffic Safety, $5,110. Why is OST SLUC per position so much higher than other Departmental agencies? Please elaborate.

ANSWER: The per position cost for the Operating Administrations include staff and facilities in the field. Costs for field space are generally lower than space in the Washington, D.C. area. Except for a very small number, all of the OST staff is in the Nassif Headquarters Building, Washington, D.C. This is one of the major reasons for the higher OST per position cost. Another reason is because of the higher percentage of executive and policy positions in OST, resulting in a higher space utilization rate. Again, this translates into a higher per position cost.

SENATOR ANDREWS: For FY 1987, selected Departmental agencies have estimated the following percentage increases in SLUC from FY 1986: Office of the Inspector General, 25.5 percent; Research and Special Programs Administration, 14.3 percent; Urban Mass Transportation Administration, -36.8 percent (with a -30.8 percent change in personnel); Federal Railroad Administration, -4.3 percent. Why is there such variance in the SLUC requested by Departmental agencies for FY 1987?

ANSWER: SLUC costs change for several reasons including changes in General Services Administration (GSA) SLUC rates, increases and decreases in the number of personnel to be housed, office closures and relocations. These changes vary from agency to agency. Generally, each of our operating administrations had significant projected increases in their FY 1987 charges for the space they occupy in the Washington Headquarters. This is because the GSA rental rates for this space were significantly increased. For instance, the rental rate for the NASSIF Building was increased by $8.00 per square foot, from $15.00 to $23.00. The percentage increase for each agency varies depending on the type and amount of space it occupies. In the case of the Urban Mass Transportation Administration, their projected increase is more than offset by a projected decrease in personnel from 496 to 343. This will result in a reduction in Headquarters or field space or a combination of both. The estimated reduction in cost due to the projected reduction in space resulted in the net (-36.8%) decrease in SLUC costs for FY 1987.

SENATOR ANDREWS: Are some Departmental agencies using large estimated SLUC increases as a cushion against potential Gramm-Rudman-Hollins cuts in FY 1987?

ANSWER: No. The Department's SLUC Budget is closely reviewed to ensure that the amounts requested match the projected requirements.

GENERAL COUNSEL

SENATOR ANDREWS: How much of the $5.3 million budget request will be spent for consultants? How much is budgeted this year for consultants? What specific work is either ongoing or contemplated this fiscal year?

ANSWER: $100,000 has been budgeted for the use of consultants to assist the litigation efforts of the General Counsel's Office.

In carrying out the Department's litigation efforts, it is necessary to retain expert consultants when the Department does not have the internal expertise or where existing personnel are unavailable because of prior commitments to other projects. Because we cannot predict what cases will be brought against the Department or what proceedings may be instituted by other agencies, it is not possible to specify on what issues consultants will be used. (For example, the Department did not have any significant advance notice of the PATCO strike which required us to augment our legal resources by seeking outside assistance.)

However, there are several types of matters which may require the use of consultants. Numerous cases may be filed before the Department seeking labor protection for alleged reductions in employment which are directly related to the Airline Deregulation Act of 1978. Outside consultants would therefore be necessary to supplement the Department's own internal expertise and to assist the General Counsel's Aviation Enforcement and Proceedings litigation efforts. Regulatory proceedings before other administrative agencies may also arise which would require the use of outside consultants if internal resources are not available. These would include proceedings before the Interstate Commerce Commission and the Federal Maritime Commission.

SENATOR ANDREWS: Why is the General Counsel hiring consultants for "economic accounting and financial analysis arising from railroad merger cases", when the Office of Policy has personnel in place capable of conducting such analysis?

ANSWER: In the past, the Department has retained consultants to augment its existing work force because of the time constraints imposed in merger proceedings, the commitment of internal resources to other projects, or the need to acquire a particular level of expertise or analytical data base that was not internally available. Furthermore, consultants may be used where they have already developed a data base of information which could be accessed at a significantly lower cost than would be incurred if the Department tried to replicate it. Finally, it is often necessary in the course of discovery against other parties to reimburse other parties' consultants for performing certain data analysis so that the validity of their conclusions can be tested and subject to cross-examination.

SENATOR ANDREWS: What have been the General Counsel's major recommendations over the last year on rail ratemaking proceedings and abandonments? On what ICC proceedings has the General Counsel filed comments? Has the ICC agreed with DOT in these proceedings?

ANSWER: Since 1985 to date, the Department has not participated in any specific abandonment proceedings before the Interstate Commerce Commission (ICC or Commission), however, we have participated in one rulemaking proceeding. In Ex Parte No. 274 (Sub No. 13), Rail Abandonments--Use of Rights-of-Ways as Trails, we submitted comments regarding the use of rail rights-of-ways as trails. This proceeding is still pending before the Commission.

We have not participated in complaint or investigation cases regarding specific rail rates, however, we have filed comments in several rulemaking proceedings related to the regulation of railroad rates, as follows:

In Ex Parte No. 346 (Sub-No. 8), Exemption from Regulation - Boxcar Traffic, the Department supported the exemption of boxcar traffic moving via joint-line rates from regulation. The Commission agreed with our recommendation and has voted to exempt this traffic from regulation subject to a reservation of jurisdiction to entertain complaints by Class III railroads.

In Ex Parte No. 320 (Sub-No. 3), Product and Geographic Competition, the Department supported a joint proposal by the Association of American Railroads (AAR) and the National Industrial Transportation League (NITL) regarding the standards to be used by the Commission in analyzing product and geographic competition in determining whether a carrier has market dominance. The Commission agreed with our recommendation.

In Ex Parte No. 445 (Sub-No. 1), Intramodal Rail Competition, the Department supported a proposal by the NITL/AAR regarding the standards to be used by the Commission in granting carriers access to shippers via reciprocal switching or through joint rates. The Commission agreed with our recommendation.

The Department has also filed comments in other rail matters which are not related to abandonments or rate regulation, as follows:

In Ex Parte No. 334 (Sub-No. 6), Review of Car Hire Regulation, the Department filed comments urging the Commission to deregulate rail car hire rates and to require carriers to set these rates through bilateral or, in some cases, multilateral agreements. This proceeding is still pending.

In Ex Parte No. 346 (Sub-No. 19), Boxcar Car Hire and Car Service, the Department filed comments urging that boxcar car hire and service be exempt from regulation subject to a reservation of Commission jurisdiction to hear complaints filed by Class III carriers. This proceeding is still pending before the Commission.

In F.D. No. 30,400, Santa Fe - Southern Pacific Merger, the Department urged the Commission to approve this merger subject to the condition that the anticompetitive effects which we identified be ameliorated. This proceeding is still pending before the Commission.

In F.D. No. 30,500, Norfolk Southern - Acquisition - North American Van Lines, the Department supported the application of Norfolk Southern to acquire North American Van Lines. The Commission agreed with our recommendation.

In Docket No. 29886 (Sub-No. 1), Official-Southwestern Divisions in the Matter of Divisions of Joint Rates Between Official and Southwestern Territories, the Department urged the Commission to vacate its 1953 prescription of divisions for movements between these territories. This proceeding is still pending.

In Ex Parte No. 462, Exemption of Demurrage from Regulation, the Department supported exempting demurrage charges from regulation; however, we asked the Commission to consider whether it should retain authority to consider complaints by market dominant shippers. The proceeding is still pending.

In F.D. No. 30633, Chicago, Central and Pacific Railroad Company - Petition for Exemption Pursuant to 49 U.S.C. § 10505, we urged the Commission to expedite its decision on whether it would exempt a sale of line from regulation so that investment and maintenance decisions relating to the line to be sold could be made. The Commission expeditiously granted the petition to exempt the transaction from regulation.

In Ex Parte No. 385 (Sub-No. 2), Procedures on Release of Data from the ICC Waybill Sample, we filed comments regarding the release of information from the Carload Waybill Sample. This matter is still pending.

The Department has also filed comments with the Commission in non-rail matters, as follows:

In Ex Parte No. MC-175, International Joint Through Rates Involving Ocean Carriers -- Revision of Tariff Filing Requirements, the Department supported the Commission's proposal to eliminate the requirement that carriers file the inland portion of a motor-ocean international joint through rate. The Commission agreed with this recommendation.

In Ex Parte No. MC-37 (Sub-No. 38), Petition to Establish the Commercial Zone of Cameron, Hidalgo, Starr and Willacy Counties, Texas, the Department supported the expansion of the commercial zones of various cities located along the Mexican border to include a four-county area. The Commission agreed with our recommendation.

In Docket No. MC-3647 (Sub-No. 484X), Application of NJ Transit Bus Operations, Inc., we urged the Commission to consider whether private bus operators were available to provide the service proposed by a publicly funded operator. The Commission granted the application.

In Ex Parte No. MC-176, Short Notice Effectiveness for Independently Filed Motor Passenger Carrier Rates, the Department recommended that motor carriers of passengers be allowed to file independently set rate increases or decreases on one day's notice. The Commission agreed with our recommendation.

In Ex Parte No. MC-178, Investigation into Motor Carrier Insurance Rates, the Department submitted comments regarding the problems faced by motor carriers in obtaining insurance. This proceeding is still pending.

In Ex Parte No. MC-122 (Sub-No. 2), Lease of Equipment and Drivers to Private Carriers -- Petitions for Modification, we urged the Commission to eliminate the 30-day minimum lease requirement for leases of drivers and equipment from nonregulated parties to private carriers. The proceeding is still pending.

In Ex Parte No. MC-169 (Sub-No. 1), Automatic Expansion of Zone of Rate Freedom for Motor Common Carriers of Property and Freight Forwarders, the Department supported an automatic expansion by 5 percent a year in the zone of rate freedom for independently filed rates of motor common carriers of property and freight forwarders. This proceeding is still pending.

In Ex Parte No. 55 (Sub-No. 62), Applications for Certificates of Registration for Certain Foreign Carriers, the Department proposed procedures for processing applications of foreign motor carriers. The Commission adopted our recommendations.

In Docket No. MC-C-10963, Armstrong World Industries, Inc. Transportation Within Texas -- Petition For Declaratory Order, the Department urged the Commission to find that a movement from a shipper's plant in Georgia to a warehouse in Texas from where the commodity then moved to the ultimate destination, was entirely within interstate commerce. The proceeding is still pending.

SENATOR ANDREWS: Why are consultants needed in FY 1987 for further deregulation of the bus, truck and barge industries when legislation is due to be submitted later this year? Why can't Policy conduct these studies?

ANSWER: Outside consultants would be used for these purposes only if the Department does not have the internal resources to conduct needed analysis. As we have noted above, it may often be less costly to retain consultants to perform an analysis if they have already developed the data. Furthermore, assuming that these industries are deregulated by September 30, 1986, the possibility exists that Congress might require the Department to perform oversight studies regarding the effects of deregulation. Therefore, these funds would still be needed.

SENATOR ANDREWS: How much travel is budgeted for the Office of General Counsel this fiscal year and next? How much of that is international?

ANSWER: $60,000 is the amount budgeted for travel for this fiscal, as well as next, year. Of this amount, it is estimated that over $40,000 will be used for international travel.

POLICY

SENATOR ANDREWS: Summarize for FY 1986 and 1987 the amount of contract research and development paid to the Transportation System Center, to other Federal Agencies, and to other research organizations. What are the major ongoing research activities?

ANSWER: Contract research expenditures planned are as follows:

	FY 1986	FY 1987
Transportation System Center (including carryover)	850,000	535,000
Other Federal Agencies	150,000	150,000
Other Research Organizations	186,000	500,000
	1,186,000	1,185,000

ANSWER: The major ongoing research activities are as follows:

International Aviation Data
Regulatory Impact Studies
Transportation Statistical Data
Transportation Safety

SENATOR ANDREWS: Who is the Assistant Secretary's "key policy advisor who assists...with the formulation of International Civil Aviation Policies"? Is this person a consultant? Why aren't aviation policies developed by the policy staff?

ANSWER: The individual referred to in our FY-87 Budget submittal is Mr. Thomas Colwell, formerly Director of the Office of Aviation, Department of State, who is on a two year reimbursable detail to the Policy Office. He is the principal advisor to the Assistant Secretary on international civil aviation policy, bilateral negotiations, consultations with foreign governments and the economic and systems analysis necessary for the formulation of Departmental positions on international aviation issues.

SENATOR ANDREWS: How much is budgeted for total travel this fiscal year and in 1987? Summarize the cost and purpose of past or expected international trips for both years.

ANSWER:

TOTAL TRAVEL BUDGETED FOR OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

FY 1986 (S&E)	FY 1986 (TPR&D)	Total
$120,000	$30,000	$150,000

FY 1987 (S&E)	FY 1987 (TPR&D)	Total
$159,000	-	$159,000

TOTAL FY'86 INTERNATIONAL TRAVEL

Destination	Purpose	Cost
FY 1986		
OCTOBER		
Toronto, Canada	U.S.-Canadian Working Group	638
Puerto Vallarta, Mexico	U.S.-Mexico bilateral negotiations	751
Rome, Italy	Bilateral negotiations	1,590
Amendment Capri, Italy	To attend seminar on Informatics in Air Traffic Control	110
The Hague, The Netherlands	Speech before Lloyd's International Civil Aviation Conference	1,600
Cornwall, Ontario, Canada	Speak at the Senior Transport Management Course at the Transport Cornwall Training Institute	450
Montreal, Canada	ICAO Conference	591
NOVEMBER		
Toyko, Japan	Bilateral negotiations	4,000
Lima, Peru	Bilateral negotiations	3,080
Paris, France	35th Session of the OECD	DOS
Moscow, Russia	Bilateral negotiations	2,954
Moscow, Russia	Bilateral negotiations	6,000
Dublin and Shannon, Ireland	Negotiations with Irish Government officials	1,736
Madrid, Spain	Bilateral negotiations	4,600
DECEMBER		
Bangkok, Thailand	9th Session of the ESCAP	DOS
Paris, France London	To attend ECAC Meeting	2,160
Paris, France	To attend ECAC Meeting	2,196
Paris, France	To attend ECAC Meeting	2,065
Bangkok, Thailand	U.S. delegation to the	DOS
Ottawa, Ontario	Canadian negotiations	723
Ottawa, Canada	Canadian negotiations	349
Rio de Janerio	Bilateral negotiations	2,010

JANUARY		
McMurdo, Station Antarctica	To observe and discuss Coast Guard Icebreakers	No cost
Montreal, Canada & Tokyo, Japan	Airport Security	2,455
Montreal, Canada	Airport Security	350
FEBRUARY		
Geneva, Switzerland	47th Session of the ECE	DOS
Santo Domingo Dominican Republic	Aviation Negotiations	1,284
Winnipeg, Manitoba Canada	Univ. of Manitoba Seminar	100
Tokyo, Japan; Seoul, Korea	Bilateral Negotiations	3,175
London, England	London, England	3,440
San Juan, Puerto Rico	Open Skies Conference	500
MARCH		
London, Moscow	Bilateral Negotiations	DOS
Geneva, Switzerland	UN Economic Commission	DOS
Paris, France	Bilateral Negotiations	2,517
Paris, France	Bilateral Negotiations	2,517
Athens, Greece	Bilateral Negotiations	1,435
Athens, Greece	Bilateral Negotiations	2,234
London, Moscow	Maritime Negotiations	2,757
Guatemala City	To meet with ROCAP	AID
APRIL		
Copenhagen, Denmark London, England	Maritime Negotiations	2,700

Proposed FY'87 International Travel

Destination FY 1987	Purpose	Cost
London, England	Bilateral Negotiations	900
Bonn, Germany	Bilateral Negotiations	900
Paris, France	Bilateral Negotiations	1,800
Mexico	Bilateral Negotiations	800
Montreal, Canada	Bilateral Negotiations	450
Unknown at this time	Bilateral Negotiations	60,000

GOVERNMENTAL AFFAIRS

SENATOR ANDREWS: Why, for the first time, does the justification show research and development contract support in the Office of Governmental Affairs? The addition of research funds this fiscal year causes a $100,000 increase over the post-sequester level for Governmental Affairs. Where was the money found for this increase in Governmental Affairs research?

ANSWER: The listing of $100,000 for research and development contractual support appears for the first time under salaries and expenses for FY-86 due to a Departmental request to eliminate a distinction between salary and expenses (S&E) contracting accounts and research contracting accounts (TPR&D) in the Office of the Secretary budget. The $100,000 is not a new listing, but rather the same funds that were requested under TPR&D Special Programs for the Assistant Secretary for

Governmental Affairs, Office of Technology and Planning Assistance.

SENATOR ANDREWS: What current contracts are in place, with whom, and in what amounts?

ANSWER: The following research contracts are currently active in the Office of Technology and Planning Assistance: Comsis Corporation, Mountain View, California, $40,000; Office of University Research, Research and Special Programs Administration, $20,000; Ecosometrics, Inc., Bethesda, Maryland, $67,700; Evaluation Technologies, Inc., Arlington, Virginia, $15,000; Bellomo-McGee, Inc., Vienna, Virginia, $11,500; and, Transportation Systems Center, Cambridge, Massachusetts, $20,000.

SENATOR ANDREWS: Why is it necessary to spend $150,000 in FY 1987? What specific contract work on rural transportation is ongoing or contemplated?

ANSWER: The Technology Sharing Program is structured to support State and local governments with research and technical information directly applicable to meet their expressed problems and needs. With minimal Federal investment in this information program, it is possible to save State and local governments hundreds of thousands of dollars by simply sharing information in a form useful to others experiencing the same or a similar problem. This kind of direct assistance is particularly important for rural jurisdictions.

The Technology Sharing Program has several active projects which deal wholly or in part with rural issues. A project on Innovative Financing for Transportation surfaced a number of techniques to finance rural transportation improvements including new approaches to bonding, impact fees in rural growth centers, local fuel taxes, and joint development projects associated with bus systems. A public/private casebook for local elected officials covers a number of approaches to involving private agencies in the funding or actually providing rural transportation services or improvements. These include contracting for special transit services, ridesharing and brokerage arrangements, user-side subsidy, development of neighborhood associations and citizen groups, and cooperative arrangements with employers. One other project will develop two low-density passenger and freight services, and the available options for their cooperative support with the private sector. A summary report on the Seventh National Conference on Rural Public Transportation will also be developed as a reference volume for the project. These materials are disseminated through the Technology Sharing Program, as well as Federal Highway's Rural Technical Assistance Program centers and their associated rural training courses.

SENATOR ANDREWS: What, specifically, are "Technical Program Development Support" and "Innovative Outreach and Assistance" (P.24)? How will contract work in these areas advance the Department's prime mission?

ANSWER: Technical Program Development Support is the collection of research data that is targeted more specifically for use by scientists and engineers (i.e., controlling traffic in highway work zones) as opposed to planning assistance (i.e., impacts of changing bus routes or establishing ridesharing programs) or information useful to state and local officials in understanding a particular problem or need (i.e., transportation of hazardous materials or energy conservation in transit facilities). Innovative outreach and assistance refers to discovering new or innovative ways for communicating internally with the research elements of the operating administrations and cooperative efforts on joint projects with other federal agencies. This constant search for new processing channels culminates in improved networking, better involvement with an expanded transportation research community, and avoidance of duplicated spending on projects of interest to a mix of agencies.

Both of these endeavors are basic to the Department's responsibilities under the Department of Transportation Act of 1966 which specifically directs the Secretary to "promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information..." and to "consult and cooperate with State and local governments."

AVIATION CONSUMER COMPLAINTS

SENATOR ANDREWS: The Secretary's March 13, 1986, report to the Committee states that the responsibility for consumer protection regulations was redelegated from Govermental Affairs to Policy. Explain the reasons for this shift. How many staff comprise this office? Was Govermental Affairs reduced by the same amount? What was the resulting increase in the Office of Policy? Why wasn't this responsibility first assumed by the General Counsel Office of Regulation and Enforcement? How many consumer complaints were received in 1985; on what areas; and how were they disposed of by the Department?

ANSWER: When the remaining Civil Aeronautics Board (CAB) functions were transferred to the Department on January 1, 1985, the aviation consumer affairs responsibilities were incorporated into an already existing consumer program under the Assistant Secretary for Govermental Affairs. The responsibility for regulations was later redelegated to the Assistant Secretary for Policy and International Affairs to further centralize the Department's regulatory program. The Office of Regulation and Enforcement was not assigned this responsibility since the Office generally provides support to program offices on regulatory issues.

The redelegation of regulatory responsibility involved no shifting of personnel. The Office of Intergovernmental and Consumer Affairs, which reports to the Assistant Secretary for Govermental Affairs, continues to handle aviation consumer complaints on a daily basis. The Office currently has 25 employees of which 19 are responsible for complaint handling and investigation. In calendar year 1985, the Office received 11,142 complaints and 2,213 inquiries. As the chart below indicates, flight problems such as cancellations and delays led the list, followed by lost, damaged or delayed baggage, refund problems and oversales or "bumping" complaints.

The manner in which complaints are handled has improved significantly since the Department inherited this function. While the CAB accepted only written complaints, which were processed using form letter inquiries to airlines and responses to consumers, the Department now encourages telephone complaints and speeds processing by the use of computers. Instead of simply referring written complaints to airlines with an accompanying form letter, the Department calls specially designated expediters at each airline. Consumers are then contacted by telephone with the resolution by our analysts, shortening response time to usually just a few days instead of months under the old CAB system. This new system also now permits the Department to publish monthly complaint reports just a few days after the end of the month when in years past reports were published 3-4 months later.

We are extremely pleased with the responsiveness of the new complaint handling system. A number of those involved in handling complaints have also put their expertise to work as part of an informal group studying all aviation consumer regulations. They, therefore, have continued input into the regulatory process and work closely with the offices of both the Assistant Secretary for Policy and International Affairs and General Counsel. This practice is consistent with the manner in which other regulations are reviewed and developed within the Department.

Complaints by Category

Complaints Category	Total Complaints
FLIGHTS PROBLEMS - Cancellations, delays, or any other deviations from schedule, planned or unplanned.	2718
BAGGAGE - Lost, damaged or delayed baggage claims, charges for excess baggage, carry-on problems, and difficulties with airline claim procedure.	2529
REFUNDS - Problems in obtaining refunds for unused or lost tickets.	1756
OVERSALES - All bumping problems, whether or not the airline complied with DOT oversale regulations.	1014
FARES - Incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, fare increases and level of fares in general.	580
TICKETING/BOARDING - Airline or agent mistakes in reservations and ticketing; problems in making reservations and obtaining tickets due to busy telephone lines or waiting in line, or delays in mailing tickets. Problems boarding the aircraft.	579
OTHER - Cargo problems, security, airport facilities, claims for bodily injury, and other problems not classified above.	544

CUSTOMER SERVICE - Rude or unhelpful employees, inadequate meals or cabin service, treatment of delayed passengers, and discriminatory treatment.	531
TOURS - Problems with scheduled or charter tour packages.	409
SMOKING - Inadequate segregation of smokers from non-smokers, failure of airline to enforce no-smoking rules, objections to the rules.	303
ADVERTISING - Advertising that is unfair, misleading or offensive to consumers.	143
CREDIT - Denial of credit, interest or late payment charges, incorrect billing, or incorrect credit reports.	37
	11,142

ASSISTANT SECRETARY FOR ADMINISTRATION

SENATOR ANDREWS: With FY 1987 personnel reduced four from the current FY 1986 level, and reduced eight from last year's request (which excluded Essential Air Service, as does this year's request). Why is the savings in compensation and benefits only $30,000?

ANSWER: The FY 1986 level has been reduced to reflect changes required for sequestering. The $30,000 is the net reduction from the revised FY 1986 level. Savings of $117,000 from the reduction of four positions are offset by an increase of $87,000 for annualization of FY 1986 and new FY 1987 required as a result of within-grade increases and the performance management recognition system.

AUTOMATED TARIFF FILING SYSTEM

SENATOR ANDREWS: Your budget justification includes $400,000 for the development of an Automated Traffic Filing System. Please describe how this system would operate.

ANSWER: The Federal Aviation Act requires U.S. and foreign airlines file international fares, cargo rates, and related rules with DOT. Further, the Act charges DOT with the responsibility for reviewing and approving or disapproving the tariff filings, and to maintain the files. More than one million fares, rates and rules are on file with new pages received at the rate of 500 per day. DOT currently processes this material manually using a paper filing and review system.

The proposed system would allow airlines to file tariffs for international routes electronically, instead of using the manual system currently in place. This would substantially reduce the paperwork burden on the Department and the industry, and allow airlines more flexibility to respond to changes in the marketplace with resulting benefits to the public.

The funds requested would allow us to develop software and technical capabilities to put in place that part of the system relating to passenger fare tariffs and special tariff permission applications.

SENATOR ANDREWS: How can the Department review and approve or disapprove international tariff filings if the "one million on file and 500 more daily" must be handled manually? What will the requested $400,000 be spent on: consultants, hardware, computer time on the Transportation Computer Center equipment? Will this be a recurring cost: if so what's the total? What is the cost/benefit on this investment?

ANSWER: We have streamlined our administrative procedures in order to expedite processing and increase productivity in managing the increased workload. At this time we cannot envision the institution of any further techniques which will improve the manual tariff filing system.

The Department has reached the saturation point in its attempt to efficiently and expeditiously fulfill its statutory and regulatory responsibilities regarding international tariff filings utilizing the current manual system.

We estimate that there are approximately 25,000 tariff changes submitted per day. There are approximately 145 current tariffs totalling over 20,000 pages. Individual tariffs range in size from a few pages in length to over 2,000 pages.

Approximately 95% of all tariff filings are submitted as special tariff permission (short notice) applications which the Department attempts to process within a 24-hour period. We receive approximately 750 special tariff permission applications each month.

The workload for the Department has increased dramatically. In the twenty year period between 1962 and 1982 tariff filings have escalated by 616%. Discounting the deregulation of domestic transportation the percentage workload increase over 1962 is still a staggering 400%, while the workforce has declined by 40% over the same period. Accordingly, the number of filings per employee has increased 4 times over the last 10 years. During 1985, tariff filings increased by approximately 18% over 1984. Further, we fully expect this growth trend to continue.

In an effort to respond to the influx of tariff material the Department has designed various automated systems which are utilized to satisfy some of its analytical requirements. These include the Standard Foreign Fare Level (SFFL) information, direct-service carrier data, foreign currency conversion tables, and European Civil Aviation Conferences (ECAC) structure and parameters. However, it should be apparent that quality must suffer as corners are cut to keep up with the ever increasing workload requirements of the Department.

ANSWER: The Department is currently engaged in developing, with internal resources, a pilot automated system which we hope to have in place no later than November of 1986. Depending on the outcome of this pilot project we will be able to determine how much work can be done in-house or if and to what extent consultants will have to be hired. Additionally, we are organizing an Advisory Committee and developing system requirements, functional specifications and a cost-benefit analysis for a complete automated tariff system. These should be completed by the end of September.

The $400,000 in the FY 87 budget will allow us to begin developing the software and technical capabilities for implementing the filing and processing of passenger fare tariffs and special tariff permission applications. In addition, approximately $8,000 for computer charges will be incurred during the coding and testing of the computer programs. We intend to maximize our internal resources to the fullest extent possible in developing the system, and to hire temporaries to fill any void.

ANSWER: The $400,000 represents a portion of the total cost for system development. On June 21, 1985, the Department received a preliminary feasibility study and cost analysis report on automating the international tariff filing system. The report concluded that the cost to design, program, test, and document an automated system for the Department would be approximately 2.2-million dollars over a five year period. Operational costs were estimated to range from 16.6-thousand dollars per month, as the first step of development is completed, to 38.7-thousand dollars per month as the entire tariff system becomes operational.

The developmental costs for the proposed filing system were based on software and mainframe equipment currently available or as planned procurements for the Transportation Computer Center (TCC). The estimates did not include the purchase costs for additional mainframe equipment and software if needed.

The development of the international tariff filing system will be accomplished in stages. For each stage of development we will review the implementation and design specifications to verify their accuracy. As each developmental stage is completed, a cost and time review will be performed to determine if budget estimates are correct.

ANSWER: A cost-benefit analysis of the proposed system is currently being formulated by the Department. It is estimated that the analysis should be complete by the middle of June. The Department can, however, anticipate benefits provided by the proposed automation:

a. Increase productivity;
b. Substantially reduce the paperwork burden on the government and industry;
c. Increase public access to Department tariffs;
d. Provide for better utilization of Department resources;
e. Facilitate the ability of the Department to monitor tariffs for indications of unlawful and/or illegal, anti-competitive pricing behavior;
f. Heighten the Department's ability to manage the tariff database to provide more complete, accurate and timely data for use in bilateral and multilateral disputes/discussions which relate to pricing issues (plus other analytical procedures/purposes/needs);
g. Amplify our ability to analyze and process inter-carrier pricing agreements; and
h. Expand our ability to manage tariffs for compliance with regulatory pricing policies.

SENATOR ANDREWS: Given current budgetary constraints, why is it necessary to implement the automated system at this time?

ANSWER: We have an opportunity to lessen the regulatory burden on the aviation industry by automating the laborious and unjustifiably expensive international tariff structure. Comments from the aviation industry to the Advance Notice of Proposed

Rulemaking indicate that they are extremely enthusiastic and supportive of our intent to automate the current tariff system.

The Department of Transportation is managing an avalanche of paper known as the international tariff filing system. The Federal Aviation Act requires both United States and foreign carriers to file their international fares, cargo, rates, and related rules with the Department, and charges the Department with the responsibility for reviewing and approving or disapproving these tariff filings, as well as maintaining the public tariff files. All of this is done manually, with a filing and review system that dates back to at least 1887, and in the last 100 years it has remained relatively unchanged.

All major air carriers and tariff filing agents have automated; the Department has not. As a result, the industry spends about $5 million a year to produce, file, and distribute paper tariff documents. The Department is spending more than $500,000 dollars per annum just to process the paper.

The tariff volume is enormous, and it has increased at an average rate of 6 percent a year over the last five years. That trend is likely to continue for the foreseeable future. Handling massive databases like this, with rapid changes and revisions, is precisely what computers are designed to do. The Department has gone as far as it can with the manual mode, without seriously compromising the integrity of the tariff system. The current international tariff filing method cannot serve the public, government, or the air transportation industry as efficiently nor as effectively as an automated system.

ADMINISTRATION

SENATOR ANDREWS: Explain the increase of $316,000 (p. 27) for administrative support when the object class schedules show no FY 1987 increase for communications, printing, supplies and equipment.

ANSWER: The object class schedules are based on the appropriated amount before sequestering while the individual offices reflect increases from amounts available after sequestering. The $316,000 is essential to continue to meet the administrative needs of the Office of the Secretary.

MINORITY BUSINESS RESOURCE CENTER

SENATOR ANDREWS: Your budget justification includes a $629,000 increase for Minority Business Resource Center contracts. Please describe the additional contracts that would be funded by this increase.

ANSWER: After sequestration, budget authority for the Minority Business Resource Center (MBRC) for FY 1986 consists of $2,871,000 for contract support. The $629,000 increase would bring the MBRC funding up to $3,500,000 which has been requested in prior years to assist minority-owned firms in obtaining transportation contracts. The MBRC funds contracts for the program management centers nationwide, a National Information Clearinghouse, a short-term lending program, a bonding program, a grant agreement associated with the Maritime project, and other special initiatives which will address specific needs in the transportation minority business community.

SENATOR ANDREWS: Given current budgetary constraints, why is this large increase necessary at this time?

ANSWER: The $629,000 increase, when combined with an estimated $500,000 carryover from FY 1986, would provide a program level commensurate with the enacted appropriations for both FY 1984 and 1985. We feel that the nationwide benefits gained from this high priority program justified the increase.

PERFORMANCE AWARDS

SENATOR ANDREWS: How much was awarded in FY 1985, and budgeted for FY 1986 and 1987 for both merit pay and SES Bonuses?

ANSWER: Requested data is presented below. Neither PMRS Awards nor SES Bonuses are individual line items in the budget. However, we are able to project spending since funding is limited to a percentage of payroll. It should be noted that both categories of awards are paid in one Fiscal Year for the preceding Fiscal Year's performance (e.g., bonuses were paid in FY 1986 for FY 1985 performance).

FY	SES Bonuses	PMRS Awards
1985	$ 87,565	$224,000
1986	$151,950	$298,872
1987	$125,000*	$330,000*

*Projected.

OTHER SERVICES

SENATOR ANDREWS: In the object classification on page 10 of your budget justification, what is included within "other services."

ANSWER: This object classification is made up of a miscellanea of sub-object class and includes such areas as training; maintenance and repair of furniture and equipment; building alterations; payments to the Working Capital Fund for OST share of costs for support services, (e.g., mail, facilities and space management, library, parking management, visual services, warehouse management, etc.); OST's cost for ADP information systems (e.g., payroll, personnel, automated word processing, contracts and grant information systems, etc.); and other contractual services (e.g., clipping services, carpet repair, carpet and drapery cleaning, linen and towel service, registration fees at conferences and meetings, etc.). Also included in this category are the MBRC contracts.

SENATOR ANDREWS: Why is the estimate for other services in 1986 in your 1987 budget justification ($15,076,000) much higher than the estimate in your 1986 justification ($8,297,000)?

ANSWER: The higher estimates for FY 1986 Other Services in the FY 1987 budget is the result of: merging the TPR&D appropriation, along with a $1.5 million carryover; and a large unplanned carryover for MBRC.

SENATOR ANDREWS: Your estimate for other services in FY 1987 is $12,928,000? What services will not be provided in 1987 that were provided in 1986?

ANSWER: There is no elimination of services in FY 1987 as compared to FY 1986. The apparent decrease in Other Services is directly related to the carryovers into 1986.

REIMBURSABLE OBLIGATIONS

SENATOR ANDREWS: Why have reimbursable obligations for personnel compensation increased almost $800,000 this fiscal year from the levels shown last year? Conversely, why were actual FY 1985 personnel obligations about $600,000 less than estimated last year?

ANSWER: The FY 1986 reimbursable increase over FY 1985 for personnel compensation reflects an agreement between the Department of Transportation and the Ministry of Communications, Kingdom of Saudi Arabia to consolidate all functions relating to the Saudi Arabia Transportation Project. Effective October 1, 1985, the Federal Highway Administration's responsibilities were transferred to the Office of the Secretary.

The decrease in actual obligations for FY 1985 from the FY 1985 estimate is a result of insufficient funding to encompass anticipated expanded Saudi programs in the areas of Traffic and Railroad Safety.

SENATOR ANDREWS: For what services will the Department be reimbursed in FY 1987?

ANSWER: The Department estimates reimbursement for services as follows:

		$ Thousands
o	General Counsel Inspector General Program	120.0
o	General Counsel honors attorneys program	349.0
o	Civil Rights investigations on special emphasis issues, concerns and equal opportunity	35.0
o	Contract Appeals Hearings	40.0
o	Saudi Arabia training and financial assistance in transportation	2,740.0
o	Advisory assistance for transportation U. S. Aid projects	176.0
o	DOT-wide Personnel employee training and counseling assistance programs	500.0
o	Other miscellaneous	40.0
	TOTAL	4,000.0

SECRETARIAL OFFICES

SENATOR ANDREWS: Provide FY 1985 - 1987 workload levels and major accomplishments for the Office of Small and Disadvantaged Business Utilization.

ANSWER: The Office of Small and Disadvantaged Business Utilization is allocated a total of 14 positions. Five (5) positions are associated with the Minority Business Resource Center which consist of four (4) professionals and one (1) clerical.

The workload levels for the MBRC field programs include: on-site visits made to recipients; MBEs accompanied to recipients; MBEs visited; total procurement opportunities obtained, matched and disseminated; bid/proposals submitted; contract awards based on PMC involvement; total dollars of contract awards; technical assistance requests received; technical assistance requests fulfilled; financial assistance requests received; financial assistance requests fulfilled and submitted to funding sources; number of financial requests funded; surety bonding assistance requests received; surety bonding assistance requests fulfilled and submitted to bonding source; number of bonds granted; and MBEs added to the vendor file.

Five (5) positions are associated with the Direct Contracting/Financial Assistance Division which consist of four (4) professionals and one (1) clerical.

The workload for the Direct Contracting/Financial Assistance Division includes marketing presentations; Minority Enterprise Development (MED) Week Awards Ceremony; uniform reporting instrument for MBE/DBE/WBE awards; and the DOT/SBA 8(a) pilot program.

The remaining positions are in the immediate office of the Director.

MAJOR ACCOMPLISHMENTS IN FISCAL YEAR 1985

Office of Small & Disadvantaged Business Utilization:

1. Program Management Centers: Issued Request for Proposals and conducted nationwide competition limited to Small Business Administration (SBA) 8(a) firms for the operation of the Program Management Centers (PMCs) for Fiscal Year 1986.

2. Maritime Demonstration Program: Implemented a demonstration program to increase the number of minority, women-owned and disadvantaged firms that receive transportation-related contracts from the Maritime industry in the Standard Metropolitan Statistical Area (SMSA) of Hampton Roads, Virginia.

3. Women-owned Businesses: Through a contract with a women-owned firm, conducted two (2) conferences which were designed to increase the participation of women-owned businesses in the direct contracting and financial assistance programs of the Department.

4. Monthly MBE/DBE/WBE Marketing Presentations: The OSDBU has developed and is implementing a program to assist the minority and women business community in marketing their firms with the Department of Transportation. The program is primarily designed to assist those firms located outside of the Washington Metropolitan

area, who have limited time during their marketing visits to the department.

Each month the OSDBU schedules presentations for two firms to present their capabilities to procurement and program staff from all Operating Administrations. As a result of the presentations, some firms have been able to identify specific procurement opportunities on which to submit bids.

5. DOT Minority Enterprise Development (MED) Week Awards Ceremony: The OSDBU in cooperation with the Operating Administrations organized and implemented a DOT MED Week Awards Ceremony to recognize the outstanding contributions and accomplishments of minority and women business owners to Department of Transportation programs. Eight (8) minority firms and seven (7) women-owned firms were presented awards at the ceremony which was held on October 11, 1985. Also, awards were presented to two (2) state officials and eight (8) DOT officials for their outstanding contributions to the DOT Minority and Women-owned Programs.

President Reagan proclaimed the week of October 6, 1985, as MED Week 1985 in honor of the Nation's minority entrepreneurs and their many vital contributions to the national economy. All government agencies were encouraged to participate in national MED week activities. Also to develop activities to honor minority firms who had made significant contributions to their programs.

6. Development of a Uniform Reporting System For MBE/DBE/WBE Awards: The OSDBU in coordination with the DOT Operating Administrations has developed a uniform reporting instrument which recipients of DOT financial assistance funds are using to report awards to MBEs/DBEs/WBEs as required by DOT regulations. The OSDBU prepared the justification for the uniform reporting instrument and submitted it to the OMB for review and approval under the Paperwork Reduction Act. OMB approval was received for the use of the form through July 31, 1988.

Previously, the lack of a uniform reporting instrument had prohibited the DOT from fully monitoring the MBE/DBE/WBE achievements of DOT recipients and developing programs and providing other assistance necessary to help DOT recipients who are experiencing difficulty in meeting their approved goals. In addition, the lack of an adequate information collection system was highlighted in the Thirty-Second Report by the U.S. Committee on Government Operations which cites examples of inadequate data collection in the FAA, FRA, and UMTA and recommended that the DOT develop a uniform reporting instrument for DOT recipients.

Currently, the OSDBU is participating in a government-wide task force including OMB staff, in order to develop a uniform reporting form for MBE/DBE/WBE achievements which will be used by all Federal recipients.

7. Implementation of DOT/SBA 8(a) Pilot Program: On September 30, 1983, the President designated the DOT to participate in the SBA 8(a) Pilot Procurement Program. The purpose of the pilot program was to identify contracting opportunities which provide a strong base of contract support to encourage and enhance

8(a) firm's business development growth. The OSDBU has coordinated with the DOT Operating Administrations to implement a successful pilot program. At the completion of the pilot program on September 30, 1985, it included 14 projects at an estimated total dollar value of $200 Million. In addition, as a result of OSDBU's close coordination with the SBA, the DOT pilot program has successfully avoided many of the controversies associated with the operation of a similar pilot program by the Army.

PROJECTED ACCOMPLISHMENTS FOR FISCAL YEAR 1986

1. Completed national technical competition for Program Management Center contracts among SBA 8(a) contractors. OSDBU was the first in the Department to compete 8(a) contractors.

2. Contracted with 11 8(a) firms to operate the Program Management Centers through September 30, 1986, with an option for FY 1987.

3. Contracted with a Hispanic firm to provide assistance to Hispanic Business Enterprises to enable them to participate in the Federal financial assistance and direct contracting programs of the Department.

4. Contracted with a firm to operate the National Information Clearinghouse which provides support to the PMC network, as well as, perform an analysis of potential automation and computerization of the PMC network.

5. Monthly MBE/DBE/WBE marketing presentations: The OSDBU has developed and is implementing a program to assist the minority and women business community in marketing their firms with the Department of Transportation. The program is primarily designed to assist those firms located outside of the Washington Metropolitan area, who have limited time during their marketing visits to the Department.

Each month the OSDBU schedules presentation for two (2) firms to present their capabilities to procurement and program staff from all Operating Administrations. As a result of the presentations, some firms have been able to identify specific procurement opportunities on which to submit bids.

6. DOT Minority Enterprise Development (MED) Week Awards Ceremony: The OSDBU in cooperation with the Operating Administrations will organize and implement a DOT MED Week Awards Ceremony to recognize the outstanding contributions and accomplishments of minority and women business owners to Department of Transportation programs. Several minority firms and women-owned firms will be presented awards at the ceremony which will be held during October 1986. Also, awards will be presented to State officials and DOT officials for their outstanding contributions to the DOT minority and women-owned programs.

Each year President Reagan proclaims MED Week during the month of October in honor of the Nation's minority entrepreneurs and their many vital contributions to the national economy. All government agencies are encouraged to participate in national MED week activities. Also to develop activities to honor minority firms who had made significant contributions to their programs.

7. Development and implementation of a Uniform Reporting System for MBE/DBE/WBE awards: The OSDBU in coordination with the DOT Operating Administrations has developed and is implementing a uniform reporting instrument which recipients of DOT financial assistance funds are using to report awards to MBEs/DBEs/WBEs as required by DOT regulations. OMB approval was received for the use of the form through July 31, 1988. In addition, the OSDBU is participating in a government-wide task force including OMB staff, in order to develop a uniform reporting form for MBE/DBE/WBE achievements which will be used by all Federal recipients.

Previously, the lack of a uniform reporting instrument had prohibited the DOT from fully monitoring the MBE/DBE/WBE achievements of DOT recipients and developing programs and providing other assistance necessary to help DOT recipients who are experiencing difficulty in meeting their approved goals. In addition, the lack of an adequate information collection system was highlighted in the Thirty-Second Report by the U.S. Committee on Government Operations which cites examples of inadequate data collection in the FAA, FRA, and UMTA and recommended that the DOT develop a uniform reporting instrument for DOT recipients.

8. Implementation and Monitoring of DOT/SBA 8(a) Pilot Program: On September 30, 1983, the President designated the DOT to participate in the SBA 8(a) Pilot Procurement Program. The purpose of the pilot program was to identify contracting opportunities which provide a strong base of contract support to encourage and enhance 8(a) firms' business development growth. The OSDBU has coordinated with the DOT Operating Administrations to implement a successful pilot program. At the completion of the pilot program on September 30, 1985, it included 14 projects at an estimated total dollar value of $240 million. The OSDBU continues to monitor the progress of each 8(a) pilot project and prepares a monthly report which is sent to the House and Senate Small Business Committees. In addition, as a result of a recent hearing on the pilot program, it is likely that the DOT will be selected to implement the pilot program through FY 1988.

9. Make an assessment of the administrative and cost burdens associated with the MBE/DBE/WBE certification process and options for improvement: This effort will assess the problems and costs encountered by MBEs/DBEs/WBEs who apply to DOT recipients for certification in order to take advantage of the opportunities afforded by the MBE/DBE/WBE program. It will also provide options and alternatives to improve the current certification process, estimate the cost of implementation of these options, analyze their advantage and disadvantage. In order to make a comprehensive assessment, interviews will be conducted with State DOTs, transit agencies, railroad agencies, airport agencies, minority contractors, and officials of FHWA, UMTA, FRA, and FAA.

Currently, firms wishing to conduct business in more than one state must apply to several State DOTs, transit properties, railroad agencies and airport agencies for certification. We have heard from many firms that the lack of a standard uniform certification process constitutes a large and unnecessary burden.

The Department's MBE regulations (49 C.F.R. Part 23) established a uniform program by which firms owned and controlled by minorities and women may participate in contracts let by recipients of financial assistance from the Department of Transportation. This rule requires recipients of DOT financial assistance to submit programs for increasing the participation of MBEs in their contracting activities. MBE/DBE/WBE certification is required to ensure that only bonafide firms participate in DOT-assisted contracts.

10. Advanced Procurement Planning: The OSDBU in cooperation with the Office of Installations and Logistics intends to develop a viable strategy for ensuring that various DOT procurement offices are performing adequate advanced procurement planning.

In order to increase competition, resulting in lower costs to the DOT for goods and services, there is a need to provide small and small disadvantaged businesses, including 8(a) and women-owned firms, more complete, accurate, and timely information on DOT procurement opportunities. Presently, adequate advanced procurement information is not being provided to these firms in a timely manner to permit them to prepare to compete for DOT procurement.

11. Evaluation of DOT implementation of P.L. 95-507 subcontracting program: The OSDBU intends to implement an indepth review and evaluation of the subcontracting programs of the various DOT Operating Administrations. Reviews will be made of existing approved subcontracting plans to determine if the maximum feasible goals for small and small disadvantaged businesses have been negotiated. A review of the achievements to date will also be made. Based upon the findings, recommendations will be developed and sent to the procurement offices regarding ways to improve their subcontracting programs.

12. Provide assistance to the SBA Procurement Center Representative (PCR) to identify procurements for 8(a) and small business set-asides: The OSDBU will continue to review DOT procurements for possible set-aside for 8(a) and small businesses consistent with subparts 19.4 and 5 of the Federal Acquisition Regulations.

13. DOT Pilot Procurement Workshop: The OSDBU intends to develop and implement a pilot procurement workshop to increase the understanding of minority and women entrepreneurs of the procedures governing contracting for supplies and services through competitive negotations. The pilot workshop will be used as a basis to develop a workshop which will be most helpful to these entrepreneurs.

PROJECTED ACCOMPLISHMENTS FOR FISCAL YEAR 1987

1. Program Management Centers: Contract with approximately 11 8(a) firms to provide marketing, technical assistance, referral, financial assistance and bonding services to firms seeking to obtain contracting opportunities with the Department, its grantees and recipients.

2. National Information Clearinghouse: Contract with an 8(a) firm to provide support to the network of PMC contractors and the OSDBU. Assist in the establishment of a computer network system.

3. Women Business Enterprise: Contract with a firm to seek out and identify the women entrepreneurs.

4. Maritime Project: Follow-up to the FY 1986 demonstration project for the West Coast.

5. Women Business Enterprise: City of Cleveland -- enter into a cooperative agreement with the City of Cleveland to focus on increasing the level of contract opportunities for professional services only, in the limited geographical area.

6. Historically Black Colleges and Universities: Design and implement a project to aid and provide assistance to a selected participant institution.

7. Public Relations: Contract with a firm to research the needs of the DBE community and identify problems encountered when dealing with the Department, its grantees and recipients.

8. Bonding: Establishment of a permanent structure to provide bonding services for DBEs utilizing the public or private sectors.

9. Monthly MBE/DBE/WBE marketing presentations: The OSDBU has developed and is implementing a program to assist the minority and women business community in marketing their firms with the Department of Transportation. The program is primarily designed to assist those firms located outside of the Washington Metropolitan area, which have limited time during their marketing visits to the Department.

Each month the OSDBU schedules presentations for two (2) firms to present their capabilities to procurement and program staff from all Operating Administrations. As a result of the presentations, some firms have been able to identify specific procurement opportunities on which to submit bids.

10. DOT Minority Enterprise Development (MED) Week Awards Ceremony: The OSDBU in cooperation with the Operating Administrations will organize and implement a DOT MED Week Awards Ceremony to recognize the outstanding contributions and accomplishments of minority and women business owners to Department of Transportation programs. Several minority firms and women-owned firms will be presented awards at the ceremony to be held during the month of October 1987. Also, awards will be presented to State officials and DOT officials for their outstanding contributions to the DOT minority and women-owned programs.

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15. DOT Procurement Workshops: The OSDBU intends to sponsor several procurement workshops to increase the understanding of minority and women entrepreneurs of the procedures governing contracting for supplies and services through competitive negotiations.

SENATOR ANDREWS: Provide FY 1985 - 1987 workload levels and major accomplishments for the Contract Appeals Board.

ANSWER: The Contract Appeals Board conducts hearings and issues final decisions, which are appealable to the United States Court of Appeals for the Federal Circuit, in appeals from contracting officer decisions under contracts awarded by the Department and its constituent administrations in accordance with the Contract Disputes Act of 1978, P.L. 95-563; sits as the Contract Adjustment Board with full authority to grant extraordinary contractual relief in accordance with P.L. 85-804; hears and decides all contractor and subcontractor debarment, suspension or ineligibility cases pursuant to 41 CFR § 12-1.604-1 (1983) or the Federal Acquisition Regulations, Part 9.4 as applicable; designates judges as hearing officers to hear cases arising as a result of suspensions and debarments of participants in DOT financial assistance programs under 49 CFR Part 29; and performs such other adjudicatory functions assigned by the Secretary consistent with the duties and responsibilities of the Board as set forth in P.L. 95-563. In FY 1985 the Board received 120 appeals and closed 147 appeals. The Board closed five multi-million dollar cases, involving many appeals, which totaled over $23 1/2 million. For the first two quarters of FY 1986, the Board received 63 appeals and closed 46 appeals. The Board closed three multi-appeal cases which totaled over $10 million and expects to close a $10-12 million case. In addition, the Board expects to receive a case involving multi-appeals exceeding $100 million in claims. For FY 1987, the Board anticipates closing two major cases involving multi-million dollar appeals. One claim will be in excess of $18 million and another of $1.3 million. In addition, we expect to have the usual three to four large multi-million dollar appeals that we have each year. The Board continues to comply with the mandatory time period for rendering decisions in small claims appeals ($10,000 and under) and accelerated appeals ($50,000 and under) as prescribed by the Contract Disputes Act of 1978.

SENATOR ANDREWS: Provide FY-1985 - 1987 workload levels and major accomplishments for the Office of Civil Rights.

ANSWER: The Office of Civil Rights is allocated a total of 24 positions. Six positions (5 professional and 1 clerical) are located in the Internal Programs Division which has responsibility for ensuring equal opportunity in internal employment practices throughout DOT. There are currently 364 active equal employment opportunity cases. Actions pertaining to these cases include interviewing complainants and the alleged discriminating official(s) in an attempt to resolve the complaint; meeting with attorneys representing complainants; on-site investigations; preparation of reports; writing of final decisions; and voluminous written and telephonic communications.

Six positions (5 professional and 1 clerical) are located in the Policy, Evaluation and Planning Division which is responsible for ensuring that affirmative actions are taken to support total Federal civil rights programs. In carrying out this responsibility, these employees provide technical advice and guidance on civil rights matters to management officials; evaluate implementation throughout the Department of approved civil rights policies, programs, standards and procedures, to ensure adherance to the policies; and conduct in-depth equal opportunity compliance reviews deemed necessary to assure effective program implementation.

Five positions (4 professional and 1 clerical) are located in the External Programs Division which is responsible for assuring full and affirmative implementation of civil rights and equal opportunity laws as they relate to services rendered to the public, operation of federally-assisted activities, and other programs and efforts involving Departmental assistance, participation, or endorsement. This division is also responsible for investigating complaints involving minority business enterprise (MBE) and small and disadvantaged business (SDB) participation in the Department's procurement and Federal financial assistance activities and reviewing and deciding on appeals denying certification which are filed by MBEs and SDBs. There are currently 93 appeals pending review and decision.

One (1) professional employee is responsible for administering the Departmental Black Colleges Program which includes developing and coordinating Departmental policy concerning historically black colleges and universities (HBCU's) with appropriate DOT organizations; administering a unified DOT HBCU program aimed at increasing the level of HBCU participation in programmatic activities throughout the Department; coordinating the collection of DOT HBCU data for various internal and external reports.

The remaining positions are in the immediate Office of the Director.

MAJOR ACCOMPLISHMENTS IN FY 1985

Office of Civil Rights

1. Developed and conducted a national training conference for the Department's Federal Women's Program Managers.
2. Conducted evaluations of the Department's headquarters and field installation Hispanic Employment Program and prepared improvement recommendations.
3. Streamlined complaint handling process, which resulted in a substantial reduction of case workload of equal employment opportunity complaints of discrimination. Fifty-nine percent (59%) of active cases were processed and closed.
4. Completed an investigation of the employment discrimination complaint filed by the Southeast Women's Employment Coalition against the Departments of Transportation of the 50 States, the District of Columbia, Puerto Rico and Guam. The final analysis is pending.
5. Submitted reports to both Senator Kennedy and the U.S. Commission on Civil Rights concerning the policies and practices of the Department's civil rights program before and after the Grove City College and Darrone cases.
6. Received approval by the Department of Justice on the Department's Civil Rights Implementation Plan.

7. Reduced the backlog of appeals of denial of minority business enterprise certification from 154 to 66 and the average processing time from 100 to 33 days.

PROJECTED ACCOMPLISHMENTS FOR FISCAL YEAR 1986-1987

1. Improve the effectiveness of implementing the Department's civil rights program by coordinating with related public and private activities and organizations to assist businesses and others meet civil rights objectives, improve management techniques, increase technical assistance to recipients of Federal funds and increase incentives for voluntary compliance with statutes which prohibit discrimination.
2. Set specific goals and objectives designed to improve representation of minorities and women in mid and senior level positions through the FY-86 Affirmative Action Plan. Identify barriers which are internal to DOT and take steps to eliminate same.
3. Place increased emphasis on expanding Upward Mobility Program activity in the Operating Administrations by encouraging retraining and/or cross-training of present employees, particularly minorities and women, so that unused skills and abilities are utilized in on-going programs.

TRAVEL

SENATOR ANDREWS: Why does the budget schedule (P. 10) show $650,000 for FY 1986 travel when Senate report 99-152 capped travel costs at $600,000?

ANSWER: Included in the $650,000 for Travel is $50,000 from the Transportation Planning, Research and Development appropriation. The "cap" of $600,000 in the Senate Report referred only to the Salaries and Expenses appropriation. The travel amount for the consolidated appropriations after sequestering is $622,000.

SENATOR ANDREWS: Provide an office-by-office breakdown to update the chart found on page 606 of last year's hearing.

ANSWER: The distribution of travel funds and obligations to date follows:

Office of the Secretary
Salaries and Expenses
Travel Costs
(in thousands of dollars)

	FY 1984	FY 1985	FY 1986 After Sequestering	FY 1986 Obligated 3/31/86	FY 1987
General Counsel	72	74	60	35	60
Policy	120	122 1/	167 1/	58 1/	159 1/
Budget and Programs	6	4	8	2	8
Government Affairs	18	15	22	11	22
Administration	87	62	60	40	60
Public Affairs	9	6	10	2	10
Secretarial Offices	230	216	295	65	282
Immediate Office	(116)	(94)	(144)	(34)	(145)

Civil Rights	(21)	(31)	(17)	(9)	(17)
Sm. & Dis. Bus. Util.	(82)	(52)	(47)	(9)	(47)
Commercial Space Transportation	(11)	(32)	(58)	(12)	(58)
Essential Air Service	---	(7)	(29)	(1)	(15)
CAB Transition 2/	---	25	--	--	--
Total	542	524	622	213	601

1/ Includes travel related to research and development functions.
2/ Civil Aeronautics Board travel claims pending and not obligated as of 12/31/84. Paid as part of CAB transition costs.

TELEPHONE SWITCHING SYSTEM

SENATOR ANDREWS: Provide a summary of obligations to date, FY 1984 - 1987 for the Department's telephone switching system, each agency's contributions to date, and illustrating communications savings in FY 1987.

ANSWER: Total obligations to date for the new computerized telephone switching system are $9,520,000. This funding provided for the initial switch procurement including the switching equipment, telephone instruments, cable and installation. Once the switch is fully installed and operational (July 1986) costs for long distance services, trunk lines, message units, maintenance, etc., will be billed to the agencies through the Working Capital Fund. The DOT administrations contributions for procurement of the switch were as follows:

OST	$995,000
OIG	135,000
WCF	770,000
USCG	2,293,000
FAA	2,279,000
FHWA	1,003,000
FRA	579,000
NHTSA	403,000
UMTA	239,000
MARAD	644,000
SLSDC	17,000
RSPA	163,000
	$9,520,000

Savings from least cost routing of long distance calls, reduced charges for moves, changes and rearrangements of Headquarters telephones and avoidance of centrex tariff increases in FY 1987 are estimated at 10% of the ten year savings or $4.7 million. This savings would accrue to the administrations in proportion to contributions.

SENATOR ANDREWS: Also show actual cost savings realized so far and projected for 10 years out.

ANSWER: The Department will begin to realize savings with the new system starting in FY 1987. Our current estimate of the ten year savings continues to be approximately $47 million, based on continually increasing centrex tariffs and lower initial procurement costs for the DOT system.

WORKING CAPITAL FUND

SENATOR ANDREWS: Your budget justification states on page 50 that "increases are offset by a reduction of $923,000 primarily as a result of reduced equipment purchases and reduced staffing levels." How much of this reduction is attributable to reduced equipment purchases? Reduced staffing level?

ANSWER: This reflects a reduction of $241,000 for equipment replacement and a staffing reduction of nine positions and $113,000. The remaining $569,000 is a miscellanea of reductions in the various activities offset by increases in other activities or object classes. (e.g., Contractual Services for the publishing and graphics activities is reduced in FY 1987 by $141,000, however, this is offset by increases in contractual services of $331,000 for the support service and transportation activities. These activities have requirements for service-type contracts for which rates are determined by the Bureau of Labor Statistics and increases in these rates are anticipated in FY 1987.)

SENATOR ANDREWS: Increases requested for FY 1987 include $2.7 million to fund the Headquarters telephone switch for the full year. Is this the final year of funding anticipated for this switch? If not, how much additional funding will be necessary to complete the transition?

ANSWER: The funding requested in the Working Capital Fund is for the continuing cost required for any telephone system and provides for a different method of billing. Currently, each administration receives bills for their local and long distance service from GSA, AT&T, C&P, etc. Once the computerized switch is installed, these costs will be incurred by or through the Working Capital Fund. The computerized switch will collect data needed for later billing and will also direct outgoing calls via the most economical route (FTS or commercial long distance carrier). The obligational authority requested for the Working Capital Fund provides a centralized collection point for costs associated with the DOT Headquarters local and long distance telephone requirements. The Working Capital Fund will continue to require this obligational authority for Headquarters telephone service for the life of the system.

SENATOR ANDREWS: What items make up the anticipated increase in the costs of rentals, maintenance, service and supply contracts? Please provide a list of these anticipated increases including the percentage change from FY 1986.

ANSWER: These included rental of equipment (e.g., copy machines, peripheral computer equipment), the maintenance of owned equipment, the contracts for services (i.e., mail services, TCC operation, guard services) and supplies (primarily paper used for printing and TCC).

MAJOR INCREASES OTHER SERVICES

Item	Increase	Percent Increase
Rental of Equipment	$259	7%
Maintenance of Equipment	89	5%
Contracted TCC Operation	423	6%
Contracted Mail Services	41	7%
Guard Services	405	20%1/
Supplies (Printing)	143	11%
ADP Supplies	55	3%

1/ Contract to be renegotiated in FY 1987 to include contractor provided supplies and equipment.

SENATOR ANDREWS: Please provide for the record a breakdown of Working Capital Fund reimbursements by mode for FY 1986 and 1987 similar to the tables that appear on pages 931 and 932, part 6 of the House Transportation Appropriations Subcommittee Hearing for last year.

ANSWER: The information follows:

FY 1987
DEPARTMENT OF TRANSPORTATION
WORKING CAPITAL FUND COST DISTRIBUTION BY CUSTOMER
($ IN 000'S)

	OST	USCG	FAA	FHWA	FRA	NHTSA	UMTA	SLS	RSPA	MARAD	OIG	OTHER	TOTAL BY CATEGORY
PUBLISHING AND GRAPHICS													
PRINTING	1036	5873	2934-	720	200	673	168	6	23	215	65	33	11946
PHOTO	88	55	165	153	27	71	13	7	7	10	5	10	611
GRAPHICS	184	49	378	345	25	151	20	4	24	37	13	71	1301
TRANS. COMPUTER ACTIVITIES													
TRANS. COMPUTER	3159	7049	599	5693	139	560	955	0	161	2573	64	5009	25906
TIME SHARING	116	592	7331	76	306	2065	531	1	23	43	315	1	11400
LIBRARY	369	358	720	300	144	186	104	12	66	343	50	59	2709
SUPPORT SVCS.													
PASS/IMPREST	3	16	24	7	1	2	1	0	1	2	1	1	59
CEIO	18	21	41	17	4	7	4	0	3	5	3	0	124
WAREHOUSE	75	64	112	49	10	93	12	0	13	13	4	22	467
TRANSPORTATION	854	91	19	1	14	6	14	0	16	11	2	27	1056
PARKING MANAGEMENT	8	31	24	11	4	6	4	1	2	6	2	2	99
MAIL SERVICES	81	296	229	99	32	61	38	1	19	54	19	0	930
BUILDING MGMT.	987	1418	1453	1187	370	640	408	14	217	625	203	116	7638
HEALTH AND FITNESS	54	21	23	67	26	37	21	1	10	28	4	0	294
SECURITY	731	1197	959	507	237	376	272	40	186	283	84	173	5046
TOTAL	7763	17131	15010	9231	1541	4933	2565	88	772	4249	834	5525	69640

NOTE: TOTALS MAY NOT ADD DUE TO ROUNDING.

FY 1986
DEPARTMENT OF TRANSPORTATION
WORKING CAPITAL FUND COST DISTRIBUTION BY CUSTOMER
($ IN 000'S)

	OST S&E	R&D	USCG	FAA	FHWA	FRA	NHTSA	UMTA	SLS	RSPA	MARAD	OIG	OTHER	TOTAL
PUBLISHING AND GRAPHICS														
PRINTING	1093	17	6291	3143	771	215	720	179	7	25	234	69	35	12798
PHOTO	76	0	48	143	133	24	61	11	6	6	9	5	9	529
GRAPHICS	179	0	48	368	336	25	147	20	4	23	36	13	69	1266
TRANS. COMPUTER ACTIVITIES														
TRANS. COMPUTER	2872	0	6409	545	5176	127	509	868	0	147	2339	58	5008	24057
TIME SHARING	113	3	592	7331	76	306	2065	531	1	23	43	315	1	11400
LIBRARY	285	47	322	648	270	129	167	94	11	59	309	45	53	2438
SUPPORT SVCS.														
PASS/IMPREST	3	0	16	23	7	1	2	1	0	1	2	1	1	58
CEIO	18	0	21	40	17	4	7	4	0	3	5	3	0	122
WAREHOUSE	73	0	62	108	48	10	91	11	0	13	13	4	21	454
TRANSPORTATION	790	0	84	17	1	13	6	13	0	15	10	2	25	977
PARKING MANAGEMENT	9	0	33	25	11	4	7	4	1	2	6	2	3	106
MAIL SERVICES	89	0	269	222	88	30	58	34	2	18	50	18	0	876
BUILDING MGMT.	714	0	1025	1051	858	268	463	295	10	157	452	146	84	5523
HEALTH AND FITNESS	42	0	16	18	52	20	28	16	1	8	22	3	0	227
SECURITY	532	0	870	698	369	173	274	198	29	135	206	61	126	3669
TOTAL	6886	67	16106	14379	8211	1348	4604	2280	72	635	3735	746	5435	64500

NOTE: TOTALS MAY NOT ADD DUE TO ROUNDING.

ADVISORY COMMITTEES

SENATOR ANDREWS: Summarize each of the Department's Advisory Committee FY 1985 - 1987 cost and accomplishments.

ANSWER: The information follows:

DEPARTMENT OF TRANSPORTATION ADVISORY COMMITTEES

Admin.	Committee Name	FY 1985 Actual	FY 1986 Estimate	FY 1987 Estimate
FHWA	National Motor Carrier	$41,801	$55,322	$38,000
	Commercial Motor Vehicle Safety Regulatory Panel	7,235	120,000	120,000
	Subtotal	49,036	175,322	158,000
NHTSA	National Highway Safety	25,660	29,600	19,600
	National Driver Register	40,474	49,600	39,600
	Subtotal	66,134	79,200	59,200
UMTA	Section 15 Reporting System	13,149	47,900	3/
FAA	Air Traffic Procedures	8,800	8,900	9,100
	Radio Technical Commission for Aeronautics	249,700	255,000	85,000
	National Airspace Review	858,000	100,000 2/	300,000 2/
	Subtotal	1,116,500	363,900	394,100
CG	USCG Academy	6,000	8,500	9,000
	National Boating Safety	18,400	18,400	18,400
	Chemical Transportation	1/	1,000	1,000
	Houston/Galveston Navigation Safety	300	500	500
	Lower Mississippi River Waterway Safety	2,000	2,000	2,000
	New York Harbor Traffic Management	1/	1,000	1,000
	Rules of the Road	12,000	26,000	26,000
	Towing Safety	2,000	2,000	2,000
	Subtotal	40,700	59,400	59,900
MARAD	Merchant Marine Academy	4,000	4,000	4,000
SLSDC	SLSDC	5,000	6,000	6,000
RSPA	Technical Pipeline Safety Standards	13,953	9,500	9,500
	Technical Hazardous Liquid Pipeline Safety Standards	23,234	5,000	16,000
	National Hazardous Materials Transportation	35,000	20,000	40,000
	Subtotal	72,187	34,500	65,500
OST	Minority Business Resource Center	2,824	6,398	17,050
	Commercial Space Transportation	9,844	15,335	22,050
	Subtotal	12,668	21,733	39,100
	Grand Total	1,379,374	791,955	785,800

1/ Formed in FY 1985, but did not meet.

2/ The charter for this committee expired in April 1985. FAA has applied for renewal but approval has not been granted by OMB.

3/ Committee terminates 9/30/86

ACCOMPLISHMENTS

FEDERAL HIGHWAY ADMINISTRATION

National Motor Carrier Advisory Committee (NMCAC)

The NMCAC was established in 1981 to provide the Department with input from the motor carrier industry on a variety of issues. During the past several years, the committee has provided valuable advice and recommendations on various DOT studies and motor carrier issues including: truck size and weight, administrative uniformity, motor carrier taxation, and cost allocation.

The Committee was deeply involved in several important motor carrier issues pending before the DOT during FY 1985 and contributed valuable comments to FHWA on these issues.

The major part of the 2-day meeting of the Committee in January 1985, was devoted to the development of comments and recommendations on the following studies mandated by Congress: the Longer Combination Vehicle Study of Piggyback Trailers; Weight Distance Taxes Study; Trans-Border Trucking Study; and the Study of Heavy Vehicle Cost Responsibilities. The designs for these studies subsequantly issued by FHWA significantly reflected the Committee recommendations. The Committee also made recommendations urging the DOT to seek full funding for the Motor Carrier Safety Assistance Program.

In its April 1985 meeting, in addition to further discussion and comments regarding on-going congressionally-mandated trucking issue studies, the Committee offered advice and comments on Mexican border trucking problems. The Committee also discussed and made recommendations to the FHWA concerning the "Truck Inventory and Use Survey" conducted by the Census Bureau. As a result of these comments and recommendations, the Census Bureau subsequently sought Committee comments on certain changes proposed by the Census Bureau in the "Truck Inventory and Use Survey."

Among several important motor carrier issues on which the Committee commented and advised at its September 1985 meeting, were the "Report on the National Governors' Association's Working Group on State Motor Carrier Procedures," and the "Centralization Proposal of the National Association of Regulatory Utility Commissioners."

Commercial Motor Vehicle Safety Regulatory Review Panel (CMVSRRP)

The CMVSRRP or Safety Panel was established by the Motor Carrier Safety Act of 1984. The Safety Panel is charged with comparing and assessing the stringency of all State commercial motor vehicle safety requirements with the corresponding Federal regulations. The panel then makes recommendations to the Secretary on which State requirements, other than those comparable to the Federal requirements, should remain in effect based on a safety benefit determination. The Secretary then initiates rulemaking, considering the recommendations of the

Safety Panel, to preempt those State requirements that are not comparable to the Federal requirements and which have no justifiable safety benefit.

The Safety Panel met during FY 1985 for an organizational meeting. During FY 1986 the Safety Panel will identify the State requirements that are the subject of their review and begin the stringency analysis of those requirements.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

National Highway Safety Advisory Committee

Commercial Vehicle Safety Issues

In 1984, the National Highway Safety Advisory Committee established a subcommittee to examine commercial vehicle safety issues. Through hearings and discussions with trucking industry representatives, federal and state officials and highway safety experts, the Committee developed and issued a report to the Secretary of Transportation. The report contained many recommendations for the Secretary to consider and stressed that emphasis should be given to developing critical elements of a public awareness program, with support from the private sector, in stimulating the states and localities to launch innovative and effective commercial vehicle safety programs. The report recommends new approaches in the following critical areas:

- truck driver training and licensing will have to be more tailored to the operating requirements of commercial trucks in use;
- the National Driver Register must come in line as quickly as possible so that States and trucking companies can use this system to remove unsafe drivers;
- Government must develop accident data for specific types of trucks if program efforts are to become more effective in reducing accidents;
- States should be encouraged to introduce more effective roadside safety inspections; and
- all States should be encouraged to adopt the critical items inspection practice of the Commercial Vehicle Safety Alliance.

In response to the report, the Secretary thanked the Committee for providing her with fresh insights and ideas to improve safety on the Nation's highways and has asked her Safety Review Task Force to review and analyze the recommendations and to identify and suggest ways to implement them.

Emergency Medical Services

The Secretary of Transportation and the Administrator of the National Highway Traffic Safety Administration asked the NHSAC to review the status of U.S. emergency medical services and trauma care provided to victims of traffic accidents and other life - threatening situations. Great strides have been made in the 1960's and 1970's as new techniques and equipment were introduced around the country. Increased attention is also being paid to effective treatment of traumatic injury. Pre-hospital EMS care and trauma care have been able to reduce the number of fatalities and directly improve the recovery of thousands of injured people. A number of changes have taken place in basic EMS and trauma care systems and the newly formed Subcommittee on EMS has been assessing these needs and trends, and will report to the Secretary on policies and program initiatives that will be required in order to maintain current EMS capability, and to improve trauma care. The Subcommittee is concentrating on a number of issues, including;

- Efficient and effective response of emergency medical services resources;
- Training of EMS personnel;
- Community awareness and access of EMS resources;
- Making EMS financially self-supporting;
- Designation of trauma treatment centers; and
- Evaluations for determining impact of pre-hospital and trauma care systems.

The EMS Subcommittee has begun initial work through assessments and trauma systems in Baltimore, MD., Washington, DC, and Pittsburgh, PA. A report outlining the Subcommitte's findings and recommendations to the Secretary is planned for 1986.

Safety Belt Usage

The Secretary of Transportation's recent 208 decision, requiring automatic protection in all new passenger automobiles by September 1, 1989, if States representing two-thirds of the population do not enact mandatory safety belt use laws by April 1, 1989, has placed much visibility on safety belt use. As a result, the NHTSA Administrator asked the Committee to identify ways in which it could become more involved in the safety belt area. To assist in this task, a subcommittee was formed. All members of the Committee were provided with information on NHTSA's Occupant Protection outreach program. This program includes efforts now underway in the corporate area, State and community efforts, and involvement of civic and volunteer organizations. Members are now working with NHTSA staff to identify and develop new ways to achieve improved corporate participation. In addition, one member is working with staff to establish an employee belt program for his company enabling him to suggest improvements in the already existing corporate employee use program. Members are working closely with NHTSA staff on seeking new ways to promote safety belt usage.

National Driver Register Advisory Committee (NDR)

Prior to the issuance of the Notice of Proposed Rulemaking on the National Driver Register, the Committee provided NHTSA with their advice and recommendations. The opportunity to discuss these issues, along with the formal recommendations made by the

Committee, provided NHTSA with several options on how to approach specific items when issuing the NPRM and the Final Rule. In addition, members were encouraged to submit their individual comments.

NDR Implementation Schedule

The Committee expressed its concern over the delays experienced in implementing the upgrading of the NDR. However, based on a review of the congressionally mandated implementation schedule and the problems in keeping to this schedule, the Committee voted to support the proposed NHTSA revisions to the schedule. The Committee also asked to be kept informed of any possible future delays as they are identified.

The Agency's proposed revisions to the implementation schedule have been included in amendments to legislation which is now being considered by the appropriate congressional committees.

Rapid Response System (RRS)

The Committee was briefed on the RRS and its possible use as an interim upgrade of the NDR pending full implementation of the Problem Driver Pointer System (PDPS). The RRS is an on-line, interactive capability for urgent inquiries and overnight batch messages. The RRS could be used as a substitute to meet some of the legislative implementation schedule dates, since reporting and testing could be done on a component used for the progression toward implementation of PDPS.

With the number of delays that have been experienced in getting the PDPS in place, the Committee supported the immediate implementation of the RRS. Since the RRS features are similar to those of the PDPS, they can be used as a stepping stone toward implementation of the PDPS. To move the implementation along, the Committee stated that the use of a commercial facility instead of the Transportation Computer Center (TCC) should be considered. This would eliminate the time required to make the TCC compatible with the RRS features and allow the RRS to be in place possibly 10-11 months earlier. The Committee reiterated its support for this recommendation and encouraged the Agency to proceed as expeditiously as possible in providing this service.

The Agency has decided to proceed with implementing the RRS as recommended by the Committee. In addition, the Agency has contracted with Boeing Computer Services to handle the NDR requirements. By moving from the TCC to a commercial time-sharing system the operational development of both the RRS and the PDPS will be expedited.

Procurement Process for Pilot States Project

The Committee noted the time required for the procurement process--from both the Federal level and the State level--and suggested that NHTSA as well as the American Association of Motor Vehicle Administrators (AAMVA) encourage States to take whatever steps possible to pre-qualify for a contractual relationship with the Government. The Committee is aware of the need to ensure that all Federal procurement guidelines are met, but urged the Federal Government, as well as State officials, to proceed as expeditiously as possible.

In addition to providing the above comments and recommendations, the membership was encouraged to share with NHTSA their individual comments on the Request for Comments--a document outlining several issues to be addressed in the Request for Proposals on the PDPS (Problem Driver Pointer System) pilot project.

Driver License Abstact (DLA)

An option for possible inclusion in the pilot program is to allow the "state of inquiry" to request a DLA (the DLA contains the complete driver history of an individual) from the "state of record" after receiving a driver history summary. Some concern was expressed that the adding of options, not required by the NDR legislation, to the pilot project could bog down the entire effort. However, the members adopted a recommendation supporting the inclusion of the DLA request feature.

The Committee also recommended that the system design include the "license status indicator" feature. This feature was recommended for inclusion to allow States to ascertain whether an individual holds a current valid license. Since records are maintained for a 7-year period, a person could have their license suspended and reinstated within that time frame--but still show up in the NDR.

The Agency did not include in the Final Rule the DLA request feature. Several Committee members, as well as outside organizations, petitioned NHTSA to reconsider the rule. The Agency is now reconsidering whether the Driver License Abstract request mechanism should be included in the NDR. The Committee has reiterated its support for this inclusion and is awaiting the outcome of the Petition for Reconsideration. The Agency did, however, include the "license status indicator" feature in the Final Rule as recommended by the Committee.

Conviction Records

A new type of record to be accessed through the NDR will be convictions for serious offenses. Initially, only the PDPS pilot states would be required to include these records. Other States could query the NDR for this type of information.
Additional concerns were voiced regarding who would be authorized to access conviction record information, whether the conviction listed on the motor vehicle record could be used by the "state of inquiry" as a reason for denying a request for licensing when the "state of record" did not consider the conviction a suspension, and whether the restoration of the driving privileges would produce a "hit" or a "no hit" (whether or not a record is in the file). The Committee did recommend that the handling of conviction records, of a type not now in the system, be included and that all States, not just the pilot PDPS States, be provided information on the existence of such records.

As stated in the Final Rule, the conviction records will be made accessible during the pilot program to all PDPS States only, and will be extended to each remaining State when it converts to the new system.

Employer Access

Employers of motor vehicle operators are authorized by the new legislation to request information about employees or prospective employees. The individual seeking employment must make the request, not the employer, and the request must be made through the State licensing agency.

Issues addressed by the Committee included: (1) whether the access procedures should be implemented in all States, or be limited to the pilot States initially; (2) ensuring that the driver history information provided under these procedures be limited to the previous 3-year period; (3) amounts to be charged by States for obtaining this information on behalf of the employers; and (4) the responsibility of the employer to provide the employee with a copy of the record received.

As stated in the Final Rule, procedures and definitions relative to employer access will be developed and tested as part of the pilot test program. Thus, during this period, such requests will be accepted only from pilot States.

Definition of Highway Safety

The NDR law states that the motor vehicle record may be used for purposes of driver licensing, driver improvement and highway safety. However, there is no definition for the term highway safety. A question arose as to whether the absence of such a definition would allow insurance companies or research groups to extract information on individuals under the pretense of promoting highway safety. The Committee expressed the need for identification of acceptable categories of use that come under the definition of highway safety.

The Agency has decided to honor requests pertaining to driver improvements or highway safety from pilot States only. Upon completion of the pilot test program, the Agency will evaluate the uses and seek comments on final definitions and procedures.

URBAN MASS TRANSPORTATION ADMINISTRATION

Section 15 Reporting System Committee

One meeting was held during fiscal year 1985. The Department's detailed investigation concerning the cost effectiveness of advisory committees had delayed the appointment of five new members to the committee thus preventing more meetings. During that meeting, the Committee reviewed and recommended to the Urban Mass Transportation Administration (UMTA) ways to improve the Section 15 reporting system on such issues as: (1) updating and streamlining the information reported from transit agencies concerning the characteristics and number of employees, and the nature and frequency of accidents involving revenue vehicles; (2)

initiating efforts to collect data on non-federally funded mass transportation services; and (3) eliminating passenger mile usage in future Section 9 formula grant allocations.

FEDERAL AVIATION ADMINISTRATION

Air Traffic Procedures Advisory Committee

During FY 1985, eight changes were made to air traffic control procedures. These changes resulted in revisions to the following Federal Aviation Administration (FAA) documents: Order 7110.65, Air Traffic Control; and the Airman's Information Manual (AIM).

The procedural changes have been in the areas of: published instrument departure procedures, ensuring acknowledgement, abbreviated departure clearance, helicopter operations - airport movement, and aircraft weight classes and groups.

During FY 1985, the committee proposed eight new recommendations for consideration. These recommendations concerned the following subjects: ensuring acknowledgement, helicopter operations - airport movement, glidepath definition, aircraft designation, definition of visual conditions, verification of automatic altitude readout, interception signals - AIM, and VFR-On-Top.

The committee also proposed input regarding published holding pattern criteria to FAA Order 7100.9A, Standard Terminal Arrival. The committee proposed the publication of articles in the Air Traffic Service Bulletin concerning the following subjects: IFR take-off minimums and departure procedures; meaningful dialogue (pilot communications problems); simultaneous intersecting runway operations, improper use of the automatic termination information service, and speed adjustments. These publications are both educational and informational vehicles to the pilot and controller communities.

Radio Technical Commission for Aeronautics

The Radio Technical Commission for Aeronautics (RTCA) is a nonprofit organization of Government and aviation industry organizations established for the study of aviation related technical problems and the development of coordinated solutions and recommendations. The RTCA is utilized by the FAA and seven other Government agencies as a federal advisory committee.

The FAA has developed a well integrated, cohesive, and internationally accepted set of standards for airborne equipment. These Technical Standard Orders (TSOs) are accepted by virtually all countries and the TSO label on equipment is a marketing asset in the world's competitive market. In addition, the TSO standards provide manufacturers a means by which they can develop equipment and systems with assurance of FAA acceptance. During the reporting year, the RTCA has provided new and revised equipment performance standards in direct support of the TSO system in addition to recommendations concerning certification of software-based equipment and systems.

RTCA special committees are currently engaged in developing new, or updated, minimum performance standards for airbore equipment. Included are: standards for navigation equipment, hardware and software for navigation data bases, digital data communications equipment, enhanced traffic alert and collision avoidance equipment, and thunderstorm detection equipment. Reports resulting from the work of these special committees will form the basis for new or revised TSOs.

A special committee is engaged in defining aviation user requirements for navigation, communication and surveillance systems for the next 25 years. Recommendations from this committee are used in formulating the U.S. position during deliberations of the International Civil Aviation Organization's committee on Future Air Navigation Systems. Another committee is preparing recommendations concerning performance characteristics of electronic devices carried aboard aircraft (for personal use) to assure they will not interfere with aircraft electronic systems.

The RTCS has initiated action to form a special committee to establish minimum system performance requirements for utilization of the Department of Defense's Global Positioning System (GPS) as a navigation system for civil aviation use.

National Airspace Review Advisory Committee

The function of the NARAC is to serve as a mechanism through which the FAA can obtain independent expert advice from aviation users. The NARAC is a cooperative government/industry venture to review the operational aspects of the Air Traffic Control (ATC) system and the National Airspace System (NAS) modernization effort. This will assist the FAA to identify and implement changes to the NAS which will promote greater efficiency for all airspace users.

During FY 1985, seven task group meetings were convened. At each meeting, the aviation users/providers reviewed and discussed airspace, procedural, and regulatory aspects of a particular segment of the ATC system and/or the modernization effort, and identified operational considerations, made recommendations on potential adjustments necessary, or validated FAA planning.

The NAR program and its task group meetings have generated over 850 recommendations. Of these, 59 were generated in FY 1985, and 127 recommendations were implemented with many more in various stages of processing.

In FY 1985, the scope of the NAR program was expanded from a review of the NAS as it existed to a review of the NAS as it evolves under enhancements contemplated in the NAS Plan and other modernization projects. This broadening of the scope has led to a shift in the sponsorship of the program to a managerial organization appropriate to matrix management. Management of the NAR Enhancement Program was assumed by the Office of Management Systems, AMS-1, under the direction of the Associate Administrator for Administration, AAD-1. Additionally, the NAR Executive Steering Committee was expanded due to the program's broadened scope and now includes the Associate Administrators for Air Traffic, AAT-1, Development and Logistics, ADL-1, Aviation Standards, AVS-1, and Airports, ARP-1. The NAR Enhancement Plan was published in December 1984 and reflected the program's expanded scope and objectives.

U.S. COAST GUARD

Coast Guard Academy Advisory Committee

In FY 1985, the Committee:

- emphasized the importance of maintaining the outstanding quality of the engineering majors and commended the Academy on the superior accreditation given by the Accreditation Board for Engineering and Technology (ABET). The quality of this program continues to be of major importance to this Committee;
- considered the Ship Control and Navigation Training System (SCANTS) to represent a unique training aid and endorsed the timely completion of this project;
- underscored its conviction that the high caliber of the Cadet Corps, and of the faculty and staff, is the consequence of superior direction and careful attention devoted to the Academy's program. It noted that the quality of the academic and military education given the Cadet Corps reflects the close cooperation of the Commandant of Cadets and the Dean of Academics;
- recognized the value of the advisory role of the Faculty Senate in fostering the highest academic standards. The Committee recommended that the Faculty Senate communicate effectively its views on the academic training of the Cadet Corps;
- noted that the Permanent Commissioned Teaching Staff (PCTS) occupies an invaluable role within the Academy's educational program and also represents an essential element of effective communication between the civilian teaching staff and the rotating military officers;
- recognized the importance of the professional training and development of the faculty and encouraged the Academy's efforts in this area;
- noted that the Seamanship/Sailing Center represents a major addition to the Academy's ability to provide the best possible training to the Cadet Corps. Stressed the value of this facility to the education of the future officers of the Coast Guard;
- recognized the importance of computers in the education of our cadets. The Committee was impressed with the current programs to incorporate computer technology into the curriculum. It suggested the formulation of a representative study group to cost effectiveness/budget;analyze the overall concept of computer utilization to enhance the performance of cadets, faculty, and administration. The group should include experts in the field of data systems technology as applied to higher

education. The primary objective of this study would be to formulate a comprehensive long range plan to maximize the benefits of computer technology. The Committee suggested the study address the following:

faculty utilization/training
cadet use
hardware network
software adaptability
SCANTS VAX applications
implementation phasing
cost effectiveness/budget;

- encouraged the plans to establish a reading and writing center to improve the basic communications skills of Academy cadets. The center currently under consideration by the Academy would contribute to improving the performance of cadets with skill deficiencies thereby enhancing their potential for academic success and their future value as Coast Guard career officers; and

- recognized and commended the Alumni Association, Parents Association, and Coast Guard Academy Foundation for their time, effort, and financial support which directly enriches the quality of life for cadets at the Academy.

National Boating Safety Advisory Council

The Council is continuously working to improve boating safety through increased boating safety education. At this time, a National depository which will serve as a clearinghouse and distribution point for boating safety education materials is being established.

The Council is continuing its work to determine the safety effects of osmotic blistering on fiberglass boat hulls. This is a potentially dangerous situation with widely varying opinions on its cause(s) and possible remedies.

The Council is searching for a feasible method for obtaining a replacement boat capacity plate in the event that the required original one becomes lost, illegible or is stolen. Boats without the required capacity plate can very easily be overloaded by an uninformed operator, thereby endangering the lives of each person on board.

The Council is preparing to review all Regulations and Manufacturing Standards that have been issued since its formulation. This review will be to determine if the regulations are still necessary and appropriate.

Prior to the establishment of this Council the national fatality rate was 22 per 100,000 recreational boats. In 1984, this rate was 6.8 deaths per 100,000 boats. This overwhelming decline in fatalities can be attributed at least in part to this Council's efforts in making boats, boaters and boating safer.

Chemical Transportation Advisory Committee

CTAC's primary function is to provide advice on proposed regulatory projects addressing hazardous material shipments by water. In FY 1985, no new projects were started. CTAC's advice and actions from previous years resulted in the following projects being completed by the Coast Guard in 1985:

1. Final Rule, Certification Procedures for Self-Propelled Foreign Flag Vessels Carrying Hazardous Liquids and Liquefied Gases, published March 5, 1985.

2. Final Rule, Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids, published May 22, 1985.

3. NPRM, Proposed Safety Standards for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases, published March 14, 1985.

4. NPRM which includes personnel respiratory protection requirements on vessels operating on the outer continental shelf published March 5, 1985.

Although inactive in FY 1985, CTAC was not abolished because several areas concerning hazardous chemical carriage were under consideration by the Coast Guard for future regulatory action. Having completed preliminary working documents, CTAC's advice will be sought in FY 1986. The areas being considered include:

1. Standards for incinerator vessels.

2. Economic impact of implementing ANNEX II of MARPOL 73/78 for vessels.

3. Revision of safety standards for liquefied gas ships and the economic impact of those proposed revisions.

4. Respiratory protection requirements for benzene carriage.

Houston/Galveston Navigation Safety Advisory Committee

The Committee was reestablished on November 6, 1984. Public Service Awards and a Coast Guard Commendation Medal were presented to all committee members, respectively, for their judgment, initiative and commitment while serving on the advisory committee.

As a direct result of a recommendation by the Committee to examine a shoaling problem in the existing fairway approach to Galveston, the Coast Guard concluded a Port Access Route Study (50 FR 9682 dated March 11, 1985), and will publish a notice of proposed rulemaking for an alternate safety fairway to avoid this shoaling area.

Based on a Committee's recommendation concerning the need, location, and characteristics of aids to navigation, a second Radar Transponder (RACON) has been established on an offshore platform to aid vessels at the Galveston approach.

The Committee supported the use of the Houston/Galveston Vessel Traffic Service which has resulted in a 99.9 percent voluntary participation rate.

Other significant topics discussed with recommendations under consideration by the Coast Guard are as follows:

1. Auxiliary channels in two high-vessel-traffic areas in the Houston/Galveston Ship Channel.

2. Improvement to various aids to navigation in the entrance channel at Galveston.

3. Expansion of an existing anchorage in Galveston Bay to provide for a separate shallow-draft vessel anchorage apart from a deep-draft-vessel anchorage.

4. A review of pipeline burial standards across safety fairways and in safety anchorages.

5. A study of the sequence of turns at the intersection of the Traffic Separation Scheme and the Safety Fairway at the "GA" buoy off Galveston.

Lower Mississippi River Waterway Safety Advisory Committee

The two full committee meetings discussed the District Commander's responses to recommendations concerning communications on the Lower Mississippi River and also increased capabilities that the users would like to see in the New Orleans Vessel Traffic Service. These recommendations were presented during the July 17, 1984 meeting. No other committee meetings were held because the committee's charter lapsed April 28, 1985, although the charter was later renewed on August 1, 1985.

Rules of the Road Advisory Council

Due to the September 1984 meeting time frame and the scheduling of the International Maritime Organization (IMO) meeting, the Council held only one meeting during Fiscal Year 1985. The following are the accomplishments of that meeting which was held on June 6 and 7, 1985, and the Council's activity throughout the year:

1. On October 30, 1984, Public Law 98-498 was passed by the Congress and required the Council to submit recommendations to the Secretary, via the U.S. Coast Guard on Diving Safety by April 17, 1985. The Council studied the issue and submitted their recommendations.

2. The Council reviewed and recommended that the Coast Guard will now work with the other nations through the International Maritime Organization, in order to grant the exemption.

3. The Council endorsed the full compliance by all vessels with the Horizontal Sector Light Requirements of the Navigation Rules. The Council evaluated COLREG Warning Signals for

Vessels Leaking Dangerous Cargo or Carrying Certain Dangerous Substances, as proposed by the Federal Republic of Germany, through the International Maritime Organization (IMO). Recommendations were made by the Council on this issue and brought before IMO's 31st session in London.

4. The Council recommended that the Coast Guard add Rule 14(d) to the list of Western Rivers Provision under 33 CFR 89.25. All the above recommendations made by the Council greatly assisted the Coast Guard in the evaluation process of each project by providing the benefit of each member's professional opinion and expertise to pinpoint and evaluate the reasons for the need to amend the laws and Federal Regulations, and to provide the United States' positions on the Navigation Rules and Navigation Safety subjects discussed at the IMO.

The Council is investigating and will take a position on the National Transportation Safety Board recommendations M-85-042 through M-85-044 and is investigating possible changes to Rule 24 (Towing). The Council has evaluated proposed Inland Rules changes submitted by Navrules users, the most recent being a proposed change to Rule 19. The Council recommended a change in wording to Inland Rules 3 and 27, and the recommendation presented was to be before the Congress in January, 1986. The Council recommended changes to Rules 14 and 24 that were passed by the Congress and became law on October 30, 1984 as Pubic Law 98-557.

Towing Safety Advisory Committee

The purpose of this committee is to advise, consult with, and make recommendations to the Secretary of the Department in which Coast Guard is operating on matters relating to shallow draft inland and coastal waterway navigation and towing safety.

Qualifications of committee members includes particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety.

Two major accomplishments in FY 1985 were:

1. Recommended drydocking intervals (CGD 84-024); and

2. Recommended regulation changes concerning Bridge-to-Bridge Radiotelephone Communications.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SLSDC Advisory Board

The Saint Lawrence Seaway Development Corporation's Advisory Board provides policy analysis and general operating advice to the Administrator. It reviews the general policies of the Corporation, including its policies in connection with design and construction of facilities and the establishment of rules of measurement for vessels and cargo and rates of charges or tolls.

Examples of Advisory Board accomplishments are: advice and guidance on labor contract negotiations with the Seaway union; input on trade and traffic development initiatives; assistance in developing export grain strategies; and toll negotiating strategy. The major accomplishments in FY 1985 were:

1. Review general policies.
2. Review new Trade and Traffic Development initiatives.

Two meetings were held in FY 1985, with four projected in both fiscal years 1986 and 1987.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Technical Pipeline Safety Standards Committee

The Committee reviews and reports on the technical feasibility, reasonableness, and practicability of any notice of a proposed gas pipeline safety standard. Members are appointed on the basis of their experience in safety regulations affecting the transportation of gas and of pipeline facilities, or their training, experience, or knowledge in one or more fields of engineering needed to evaluate gas pipeline safety standards that regulate the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards.

Major accomplishments in FY 1985 were:

1. Reviewed and approved proposed amendments to 49 CFR Part 192 Sections 192.243 and 192.313(a).

2. Reviewed DOT Pipeline Safety Program in conjunction with THLPSSC and provided conclusions in joint report to the Administrator RSPA.

3. In conjunction with the THLPSSC reviewed and commented on several reports of studies conduct by RSPA on pipeline matters in response to GAO and Congressional requests.

Three meetings were held in FY 1985 with two projected in both FY 1986 and FY 1987.

Technical Hazardous Liquid Pipeline Safety Standards Committee

The Committee reviews and reports on the technical feasibility, reasonableness, and practicability of any notice of a proposed hazardous liquid pipeline safety standard. Members are appointed on the basis of their experience in safety regulations affecting transportation of hazardous liquid facilities, or their training, experience, or knowledge in one or more fields of engineering needed to evaluate hazardous liquid pipeline safety standards that regulate the transportation of hazardous liquids or the operation of pipeline facilities.

Major accomplishments in FY 1985 were:

1. Reviewed and approved: new definition to be included in 195.2 for gathering line, rural area, and production facility; and proposed amendments to 49 CFR Part 195 Sections 195.214, 195.27, 195.3, and 195.234(e).

2. Reviewed DOT Pipeline Safety Program in conjunction with TPSSC and provided conclusions in joint report to the Administrator RSPA.

3. In conjunction with the TPSSC reviewed and commented on several reports of studies conducted by RSPA on pipeline matters in response to GAO and Congressional requests.

Three meetings were held in FY 1985 with one projected in FY 1986 and two in FY 1987.

National Hazardous Materials Transportation Advisory Committee (NHMTAC).

The NHMTAC provides information, advice, and recommendations to DOT on matters relating to all aspects of hazardous materials transportation and Federal, State, and local government roles and relationships. Members are appointed by the Secretary, after consultation with appropriate State and local government bodies, industry associations, labor organizations, and public interest groups. Members shall be appointed from among representatives of Federal, State, and local governments; hazardous materials shippers, carriers, and packaging manufacturers; organized labor; academia; and other concerned individuals expert in hazardous materials transportation.

The committee met for the first time on February 19, 1985, and throughout the remainder of FY 1985 to develop recommendations to the Secretary. These recommendations dealt with such issues as: driver qualifications, registration and permitting, funding, uniformity, information resources and other aspects of hazardous materials transportation.

Three meetings were held in FY 1985 with two projected in FY 1986 and four in FY 1987.

OST - MINORITY BUSINESS RESOURCE CENTER ADVISORY COMMITTEE

The Minority Business Resource Center (MBRC) Advisory Committee recommended the design and implementation of a Maritime Demonstration Project to assist DBE/WBEs obtain contract opportunities from the Maritime industry. The OSDBU entered into a grant agreement with the Virginia Port Authority on March 1, 1985.

On March 26, 1985, the Advisory Committee members met with the Acting Director of the OSDBU to discuss the Committee's activities for Fiscal Year 1985.

On May 2, 1985, Advisory committee members met with Miami-Dade County officials to discuss DBE/WBEs participation in concession projects at airports, railroads and mass transit stations.

On August 22, 1985, the Advisory Committee held its meeting in Los Angeles, CA to discuss the status of the MBRC programs. Several attendees were concerned about the state certification processes and requested that the Department address the issue of a uniform certification process. The Chairman recommended that the issue be raised with the Secretary by the Advisory Committee. No meeting has been scheduled at this time.

OST - OFFICE OF COMMERCIAL SPACE TRANSPORTATION

This committee is designed to include a balance of commercial and public interests, as well as small and large companies. It includes vehicle and satellite manufacturers, satellite operators and representatives of the insurance, financial, legal, and academic communities.

During 1985, the Advisory Committee held two meetings in which a broad range of subjects of vital importance to the commercial ELV industry were discussed. These included such areas as: the unavailability and higher cost of space launch insurance; technology transfer problems when supplying marketing data to overseas customers; the unequal treatment accorded payloads imported for ELV launched vs. those imported for Shuttle launches; the protection of proprietary data; the impact of Shuttle and Ariane reflight insurance on commercial ELV efforts; and most important, the licensing process being developed by the Department for commercial launches. The Committee has also been very concerned about the capital formation issue, and has formed an internal working group to look into this matter.

As a result of these discussions, a series of recommendations were developed and forwarded to the Secretary. They were used by the Office of Commercial Space Transportation, within the Administration, and in testimony before Congress as an expression of the commercial ELV industry views on particular issues. They were also made an integral component of the action agenda for the OCST.

POLITICAL APPOINTEES

SENATOR ANDREWS: Identify, by mode and office, political appointees in the Department for FY 1980-87. Differentiate between authorized and filled positions.

ANSWER: Data for FY 1986 is as of March 31, 1986. Data for FY 1987 is not yet available. All other data is as of the end of the pertinent FY. All data presented below reflects filled Presidential, Noncareer SES, and Schedule C positions. In FY 1980, the Department's authorization for Presidential, Noncareer SES, and Schedule C positions was 136. On July 31, 1981, the Office of Personnel Management (OPM) revoked agencies' appointing authority for Schedule C positions. On January 24, 1984, OPM revoked agencies' appointing authority for Noncareer SES positions. Therefore, for FYs 1981-86, no meaningful distinction can be drawn between authorized and filled positions.

DEPARTMENT OF TRANSPORTATION
PRESIDENTIAL (PAS) NONCAREER SENIOR EXECUTIVE SERVICE (NC), AND SCHEDULE C (C) APPOINTEES
FY 1980 - FY 1986

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86 **
OFFICE OF THE SECRETARY							
Secretarial Offices	31	39	42	41	41	34	33
Public Affairs	*	*	*	*	7	7	9
Budget and Programs	3	1	2	2	2	2	1
General Counsel	3	7	4	4	5	5	5
Governmental Affairs	16	14	17	16	18	20	18
Administration	0	0	3	2	2	2	5
Policy and International Affairs	3	3	3	7	5	5	4
OIG	2	2	2	2	2	2	1
FAA	13	9	10	14	13	16	16
FHWA	7	7	10	12	9	11	10
FRA	7	6	7	8	10	8	8
NHTSA	6	7	10	12	9	14	14
UMTA	7	9	13	9	11	11	12
SLSDC	3	3	3	2	5	7	7
RSPA	4	1	1	2	2	3	3
MARAD	NA	2	6	8	7	5	5
USCG	0	0	0	0	0	0	0

* Established in September 1983 as a separate office - formerly included in Secretarial Offices.

** As of March 31, 1986

COAST GUARD ACQUISITION, CONSTRUCTION & IMPROVEMENT

SENATOR ANDREWS: We understand that negotiations are ongoing regarding Coast Guard capital funding in FY 1986 and FY 1987. Provide any update to the February 25, 1986 reprogramming plan as a result of those negotiations.

ANSWER: OST and Coast Guard representatives have met with Congressional staff and continued discussions of the plan submitted on February 25. At this point there is nothing definite to report.

(Note: Allocations of CG DAA funds in FY 1986 and FY 1987 seem to have been agreed to by the Administration and the Congress. Necessary actions are planned to assure compliance with pertinent procedures.)

ICC SUNSET - RAIL REGULATION

SENATOR ANDREWS: How does DOT expect to absorb the apparent loss of budget authority for rail regulation?

ANSWER: Both DOT and DOJ now have people on board with expertise on rail regulatory matters so there has been some overlapping among the three departments. Any time we sunset an agency, there should be some consolidations and savings. Thus, we believe that such regulation could be carried out in a more streamlined organizational structure. The most obvious savings, other than personnel costs, would be the elimination of some overhead costs associated with maintaining a separate agency.

SENATOR ANDREWS: Does DOT plan on reducing the scope of some functions? If so, what functions would this involve?

ANSWER: No. While we anticipate that some organizational consolidation of rail regulatory functions might occur during the sunset process itself, we do not plan to make any substantive changes when rail regulation is transferred to DOT.

SENATOR ANDREWS: Does DOT expect to change its ICC organizational structure to perform functions more effectively and efficiently?

ANSWER: Pursuant to our experience following CAB sunset, we believe that a more streamlined administrative structure can be developed to handle existing ICC rail regulation functions. We anticipate simpler decision making procedures and fewer levels of review for many rail matters.

SENATOR ANDREWS: What funds would be required in successive years?

ANSWER: It would be premature to speculate on subsequent years' funding. Such funding will be determined through the usual budget process, based upon then-current regulatory needs and budgetary constraints.

SENATOR ANDREWS: Although the current proposal calls for the direct transfer of all rail regulatory functions, excluding the antitrust functions, to DOT, have you considered eliminating some rail functions after the transfer, and if so, which ones? Would you plan on setting up some type of a priority system, and, if so, which functions would get higher priority?

ANSWER: We do not anticipate any elimination of rail functions after the transfer takes place, although certain organizational changes might come about during the sunset process itself. The focal point of the sunset proposal is the elimination of unneeded federal regulation of the truck, intercity bus, freight forwarder, rail passenger, ferry, and ICC-regulated pipeline industries, while preserving the rail freight regulatory reforms of the Staggers Act.

SENATOR ANDREWS: Congress established the commission form of organization for regulatory agencies in order to provide independent, expert decisionmaking on complex areas. How would decisionmaking be handled if the rail functions were shifted to DOT? Would the commission form be retained? What alternative organization structures have you considered?

ANSWER: Our elimination of the commission form of organization after sunset of the CAB has not caused any problems in handling aviation cases. Although we are still exploring organizational options for rail regulation if ICC sunset occurs, it is relatively unlikely that a commission form of organization would be adopted. We believe that more streamlined procedures can be equally effective or more effective.

SENATOR ANDREWS: Did the Administration consider transferring the rail functions to another independent regulatory agency, such as FMC? How would the critical issue of independence be preserved if the new organization reports to the Secretary of Transportation?

ANSWER: We did not give serious consideration to transferring ICC railroad economic regulation to any other independent regulatory agency. We believe that, compared to other agencies, DOT is the best source of expertise in this area.

We appreciate the need to assure due process and proper separation of functions in all of the proceedings that transfer from the ICC; a similar situation occurred when the CAB was sunsetted and its residual functions transferred to DOT in 1985. It should be noted that DOT is currently successfully handling former CAB cases without any major problems, and we will draw upon this experience in developing a similar plan for handling rail regulatory matters.

SENATOR ANDREWS: Under the current ICC structure, there is a known set of administrative procedures available to shippers to file complaints and protests. These procedures are unique to regulatory agencies. What steps has DOT taken to ensure that a similar system will continue to exist?

ANSWER: We certainly recognize the need for clear, well understood administrative procedures. Although the details have not been worked out, we anticipate the procedures developed and lessons learned pursuant to the CAB sunset would provide general guidance in the mechanics of implementation and maintenance of procedures to meet shippers' needs and the requirements of due process. In the CAB situation, all existing procedures were continued essentially unchanged.

SENATOR ANDREWS: If the Administration's proposal becomes effective, what steps would DOT take to ensure full cooperation and exchange of information between it and the Department of Justice in order to carry out joint rail regulatory functions, dealing with such areas as rates and mergers? What type of mechanism would exist to allow for an exchange of expertise between the agencies (for example, to review mergers and their impact on other rail regulatory areas)?

From a financial perspective, expediency is crucial in merger and competitive access cases: how would DOT work with DOJ to ensure efficient action?

ANSWER: DOT will have the opportunity to present its formal comments on issues transferred to DOJ and vice versa. Accordingly, as is currently being done at the ICC, the comments of other regulatory agencies can be taken into consideration.

STAGGERS RAIL ACT

SENATOR ANDREWS: The railroads are a mature industry, one in which investment needs are primarily for repair and replacement rather than for totally new investment. Would DOT, in its revenue adequacy determinations, allow a full return on that portion of the railroad's asset base that will not be replaced?

ANSWER: The revenue adequacy provision of the statute has a very specific purpose--to foster regulatory policies that will enable the railroads to provide sound transportation service over the long term. In enacting that provision, the Congress recognized that the railroads have to earn sufficient returns to attract and retain the investments necessary for operating and keeping up the required equipment and facilities.* With this principle in mind, the Department supports the concept that a railroad should be able to earn a market rate of return on all of its investments, valued at their historical cost less accumulated depreciation, calculated on a straight-line basis over the useful life of the assets.

Firms or individuals expect to earn a competitive return on the investments that they put into an enterprise. If a prospective investor perceived that investments in the rail industry would not have the opportunity to generate a competitive rate of return, that investor would not place or maintain capital in railroads. Instead, the investor would look to debt and equity investments in other industries that represent better earning opportunities. In fact, that is the principle underlying the revenue adequacy provision enacted by the Congress.

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* Unlike public utilities, which are guaranteed a return on all assets in their rate base, railroads face strong competition and are not (and cannot be) guaranteed a competitive rate of return through regulation. They therefore have no incentive to retain assets that are not "used and useful." In fact, since the incentive for a railroad is to divest itself of assets that are not used and useful, railroads have very few such assets; to retain them would add to the costs of doing business and affect railroads' ability to compete, in contrast with utilities, which are allowed a return on those assets.

SENATOR ANDREWS: ICC uses current, rather than the embedded, cost of debt to determine the cost of capital. Given that the railroads do not refinance their entire debt every year, and that such an approach may represent a windfall to stockholders, would you continue to use the current cost of debt?

ANSWER: The revenue adequacy provision of the law, codified as 49 U.S.C. section 10704(a)(2), is in large part intended to be forward-looking. It directs that:

> Revenue levels established under this paragraph should--
>
> (A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation, and
>
> (B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

The language of the statute is clearly aimed at future needs, not just the coverage of historical costs. In implementing the provision, the ICC's decisions have embodied the principle that railroads must be able to attract additional capital financing in order to support necessary investments or replacement of assets. The Department will continue to implement the Staggers Act in a way that ensures that the railroads have the opportunity to earn a rate of return that can sustain borrowing in the capital markets. A railroad can only achieve that objective if a prospective lender is assured that the railroad can safely cover the costs of borrowing, at current (not embedded) interest rates.

It is worth noting that in the last two years the railroad industry earned a return on investment of about 5 percent. This is certainly a dramatic increase from the 1 to 2 percent levels of the twenty years preceding the Staggers Act. But it is still less than the return that an investor could receive by merely depositing money in a NOW account. As the nation's utilities have argued in their own rate cases, an industry that cannot generate a return on capital equal to the cost of borrowing is an endangered species.

SENATOR ANDREWS: An important source of capital for the railroads is deferred taxes. ICC allows the railroads to earn a return on these funds but does not count them as a source of capital in determining the cost of capital. This approach can make a substantial difference in the railroads' revenue adequacy. Will DOT continue this approach?

ANSWER: The Department supports allowing a railroad to earn an adequate return on its investments, no matter how they were financed. DOT does, however, propose in our comments to the Railroad Accounting Principles Board that in computing a railroad's annual income, the carrier should not be assumed to have paid the annual increment to deferred taxes; instead, we recommend that only the actual income taxes paid in any year should be treated as a current year expense.

Our recommendation follows what the utilities refer to as "flow-through" accounting, because it allows the beneficial effects on earnings of accelerated depreciation and investment tax credits to flow through immediately to the bottom line, and thereby also to flow through to customers in the form of lower rate requirements. The effect of our proposal on railroads' computed rates of return used in a revenue adequacy determination is similar to the effect of making an adjustment for deferred taxes in the investment base, but we believe our suggested approach is more realistic. It captures more accurately the railroads' actual tax expenditures, and similarly, the costs that rates in the immediate period have to cover.

SENATOR ANDREWS: In its written response to ICC's Ex Parte 393 (Sub No-1) "Standards for Railroad Revenue Adequacy," DOT supported ICC's proposed change to current cost accounting from the present historical cost system. How would you assure the accuracy of data received, estimate current replacement value of railroad assets, and continually monitor and update the necessary cost indices without increased staffing?

ANSWER: The Department recognizes the serious difficulties involved in attempting to assess the current replacement value of railroad assets. We continue to believe that earning the real cost of capital on the replacement cost of assets represents a superior measure of what a company needs to make in order to attract and retain investment capital; however, as we recommend in our comments to the Railroad Accounting Principles Board, for practical reasons such as you suggest, revenue adequacy findings should continue to be based on railroads' return on the historical investment base.

SENATOR ANDREWS: Much of the data used in revenue adequacy proceedings is supplied by the railroads. For example, in the 1984 cost of capital determination only the Association of American Railroads submitted data and consequently ICC's determination was based solely on this data. Can this data be considered unbiased given the source? Would you implement new procedures to assure the accuracy and validity of the data? Could this be done with the proposed allocation of staff?

ANSWER: All interested parties are invited to submit data and comments on the railroads' cost of capital, and a number of shippers or shipper groups have submitted evidence in the ICC's proceedings on this question in recent years, along with the Association of American Railroads. In the most recent year, the shipper representatives declined to submit any specific data for use in computing the cost of capital, maintaining that they disagreed with the way the ICC was calculating and applying the cost of capital figure.

The railroads have submitted verified statements on the cost of capital prepared by a number of experts, including staff of the Association of American Railroads as well as outside consultants and economists. It is possible to verify the evidence of these witnesses from corporate reports to the ICC and the SEC, and in some cases from independent sources in the investment community. No one has disputed the data, but only their application. The Department would, of course, encourage and welcome qualitative and quantitative data from shippers and railroads on all aspects of the revenue adequacy determination. From the combined evidence available, the staff can develop an unbiased estimate of the cost of capital.

Finally, it is essential to recognize that a fundamental part of the proposal for transferring responsibilities of the ICC to the Department is the call for transfer of staff adequate to perform those functions.

SENATOR ANDREWS: DOT has proposed performing ICC rail functions on a smaller budget. Given these reductions, how will DOT assure that competitive access protests and complaints on joint rate and reciprocal switching cancellations receive timely and adequate review?

ANSWER: Our proposed administrative procedures would be much more streamlined with the elimination of the heirarchy of multiple Commissioners and their attendant staffs. Although the details have not been worked out, we anticipate that the procedures we developed in connection with the CAB sunset would provide general guidance in the mechanics of implementation for rail regulation transferred to DOT. It should be noted that DOT is currently handling former CAB cases without any major problems.

SENATOR ANDREWS: The Staggers Rail Act of 1980 authorized the cancellation of joint rates and reciprocal switching agreements to allow railroads greater financial flexibility. However, these cancellations were not to be made if they were not in the public interest or if they were anticompetitive in nature. How will DOT evaluate the public interest and competitive aspects of joint rate and reciprocal switching cancellations and what criteria will be established to guide such evaluations?

ANSWER: We will continue to use the criteria established by the ICC and the recent agreements between the railroads and shippers which established additional rules on how competitive access cases would be handled. We believe that the agreements recently reached between the railroads and shippers should be given a fair chance to work. However, we will monitor the situation to see if additional criteria or safeguards should be established to guide such evaluations.

SENATOR ANDREWS: How widespread are joint rate and reciprocal switching cancellations and what are the economic and social effects on the carriers, shippers, and communities impacted by the cancellations?

ANSWER: The ICC's Office of Transportation Analysis has conducted a study on Joint Rate and Reciprocal Switching Cancellations. The study was based on survey responses from 376 shippers and 189 receivers selected by random sample. The ICC's preliminary findings were that 22-24 percent of the respondents experienced some joint rate or reciprocal switching cancellations; however, only 1 to 4 percent of the total traffic actually moved on the routes affected, and most of that traffic was shifted to other routes using the cancelling carrier. The ICC also found that only about 4 percent of total tonnage -- 10 to 12.8 percent of the tonnage of those respondents whose traffic is handled under reciprocal switching -- experienced cancellation of reciprocal switching charges or large increases in reciprocal switching charges. The study revealed that service and efficiency were largely unchanged as a result of joint rate or reciprocal switching cancellations. The survey shows that rate reductions on competing single-line or joint-line routes were a more significant factor in changing routing patterns than were joint rate and reciprocal switching cancellations.

SENATOR ANDREWS: In October 1985, ICC adopted Ex Parte 445 (Sub-No. 1) "Intramodal Rail Competition," which established additional rules on how competitive access cases would be handled. Included were requirements that joint rate and reciprocal switching cancellations would be explained and justified prior to the cancellation. In addition, it required that shippers and carriers would negotiate competitive access disputes prior to initiating a challenge. The new rules also called for mandatory suspension of cancellations if the cancellation would eliminate effective railroad competition or a shipper or carrier would use the joint rate route for a significant portion of its transportation needs. Will DOT implement this recent ruling? Does DOT believe that these rules will increase the protections afforded shippers and connecting carriers? Are there additional protections that might be developed?

ANSWER: DOT will implement the recent ruling in Ex Parte 445 (Sub-No. 1) adopting additional rules on how competitive access cases would be handled. We believe that the new criteria will offer additional protections to shippers and connecting carriers in an effort to balance the needs of shippers and/or connecting carriers against the needs of railroads to earn sufficient revenues.

We intend to monitor the situation to see if additional protections might be needed, and we will also continue to encourage shippers and carriers to work together toward mutually satisfactory solutions.

SENATOR ANDREWS: After passage of the Staggers Act, shippers had the opportunity to file complaints on the rates in effect at that time or else have those rates assumed to be reasonable. Of the 835 cases filed over 750 were settled through ICC sponsored negotiation. ICC encouraged these negotiations to mitigate the impact of this massive filing of cases on its limited staff. Does DOT intend to continue this practice of encouraging negotiation? Does DOT believe such a practice is appropriate when one party — the railroad — may have considerable market power over the other party -- the shipper?

ANSWER: The DOT will, very definitely, continue to encourage negotiation between carriers and shippers. We believe it is preferable to have the carriers and shippers work out a mutually satisfactory agreement, rather than to have a regulator impose one.

Recent ICC decisions and the agreements recently reached between the railroads and shippers should be given a fair chance to work.

However, if a shipper or carrier feels that it cannot reach a satisfactory solution through negotiation, it can pursue its complaint and rely on traditional regulatory procedures to arrive at a solution.

SENATOR ANDREWS: A key element of the coal rate guidelines is the policy that rates should not exceed the stand alone cost of providing the service. ICC has adopted a broad definition of stand alone cost, with the expectation that stand alone cost will be defined more precisely in the course of litigating the outstanding coal rate cases. Will DOT continue to use the stand alone cost criteria? If so, will DOT try to more precisely define stand alone cost or will it continue ICC's practice of letting the definition evolve through litigation?

ANSWER: The Department has supported the ICC's basic proposal to use a stand-alone cost constraint as an element of maximum rate regulation. It should be noted that in our official comments to the ICC on the coal rate guidelines, we also attempted to provide further detail on how the parties should calculate stand-alone costs and what type of data might be used. We do agree with the ICC that the principles set out as part of ratemaking guidelines must of necessity be general and flexible.

The details of how the stand-alone costs will be constructed in an individual case and how that will affect the rate will differ from case to case. Such details will have to be developed in the individual proceedings, to meet the circumstances of the particular movements involved.

SENATOR ANDREWS: Another key element of ICC's maximum rate guidelines is the revenue adequacy of the railroad whose rate is under review. ICC has indicated that it will look more favorably on rate increases when the railroad is revenue inadequate. Will DOT continue this policy? Will railroads that are close to revenue adequacy receive the same consideration as those that are far from revenue adequacy? In other words, will railroads have a large amount of ratemaking freedom as long as they are technically revenue inadequate?

ANSWER: The mandate of the Congress in the 4R Act and reflected in the rail transportation policy of the Staggers Act is that the ICC "make an adequate and continuing effort to assist" the rail carriers to attain the goal of earning adequate revenues. In assuming the responsibilities of the Commission, the Department will continue to abide by the policy that revenue adequacy be part of maximum rate regulation standards.

The ICC has ruled in its coal rate guidelines that until a railroad reaches revenue adequacy, that railroad's rates will be subject to three regulatory constraints:

- -- stand-alone costs;
- -- a shippers' requirement for a phase-in of rate increases to avert serious economic dislocation; and
- -- management inefficiency.

Under the third constraint, if the ICC finds that the railroad in question would have been earning adequate revenues but for its inefficiency (the "Long-Cannon factors" in the Staggers Act), the railroad's rates will be regulated as though it were revenue adequate. These are economically and legally sound principles and the Department supports them. The Department also supports the Commission's decision to scrutinize rail rates more closely after a railroad has achieved revenue adequacy. To the extent that a railroad has not yet reached that point, however, the other constraints on rates should continue to apply.

RAIL ABANDONMENTS

SENATOR ANDREWS: What procedures will DOT use to address the increasingly complex judicial reviews necessary to resolve future rail abandonment cases?

ANSWER: The Department will carefully review abandonment applications to determine whether they satisfy the statutory requirements. Decisions will be issued which apply these statutory standards and thereby minimize the possibility of court review, or if review is taken, of court remand. We do not anticipate any serious problems in this area.

ICC SUNSET - TRUCK REGULATION

SENATOR ANDREWS: The Administration's proposed trucking deregulation bill (S.1711) eliminates current ICC data reporting requirements for trucking firms, without transferring any of these data reporting requirements to DOT or to other agencies. Has DOT conducted any analysis of the needs of the Federal and State and local governments and of the public for data on the trucking industry, and of the least expensive way of compiling these data?

ANSWER: The ICC currently requires regulated motor carriers to report certain operational and financial information periodically. The data supplied assists the ICC in analyzing the merits of proposed amendments to authorized rates and tariffs charged by the regulated portion of interstate trucking.

However, the Administration's bill eliminates all remaining ICC regulation of entry and of rates charged by trucking companies.

Although the Department has not conducted a formal analysis of the impact of eliminating the ICC data reporting requirements, our preliminary assessment is that the information currently required by ICC is limited in its usefulness.

SENATOR ANDREWS: If the DOT does not require these data be collected, who will? Does DOT believe that data of adequate quality and comprehensiveness will be supplied voluntarily by the industry if they are not required by law?

ANSWER: The Department of Transportation currently does not require industry sources to supply these data nor do we see a need to impose such a requirement. The information currently required by the ICC is limited in its usefulness since it applies only to the regulated portion of the motor carrier industry.

The data necessary to accurately describe the operational and financial characteristics of the motor carrier industry will be derived from studies jointly sponsored by the DOT and the Bureau of the Census and other available sources.

SENATOR ANDREWS: Why has DOT not yet submitted to the Congress its proposed new safety fitness procedure as mandated under the 1984 Motor Carrier Safety Act?

ANSWER: Executive Orders and DOT Rules Practice establish rulemaking procedures and govern the conduct of rulemaking actions which includes in-depth reviews at various administrative levels. These constraints are placed on the Executive Branch to ensure that the best possible regulation is developed and promulgated. We plan to have a final rule to implement the safety fitness rating procedure this summer.

SENATOR ANDREWS: At the current rate at which DOT audits motor carriers, it will take 20 to 30 years before all of them are audited. Do you think that this auditing rate provides a satisfactory margin of safety for the American people?

ANSWER: No. At the present time there are 138 safety investigators in the BMCS field offices with responsibilities for monitoring the safety compliance posture of some 218,000 motor carriers. This equates to a carrier/investigator ratio of approximately 1700:1'and has proven to be inadequate. The Secretary has recently endorsed the hiring of 150 additional safety investigators during fiscal years 1986 and 1987. Once these personnel are hired and trained, the average ratio of motor carriers to safety investigators will be closer to 700:1.

However, the BMCS staff will not be conducting "business as usual." A shift in the emphasis of the BMCS program will target resources and efforts to those carriers with safety problems regardless of the size of the carrier. The key to this program will be a computer system that will integrate State inspection data, accident reports, and Federal inspection data. A significant addition to this data system will be the information collected through the Safety Fitness Determination on the approximately 185,000 motor carriers that will be rated during the next two years. Through this integrated computer system, problem and high risk carriers will be identified and contacted to offer educational and technical assistance to correct their safety management practices. However, for those carriers that continue to operate unsafely, a team of safety specialists will be sent to do in-depth enforcement audits of their records and facilities and will quickly proceed with civil or criminal penalties for violations.

SENATOR ANDREWS: To what extent will DOT need more resources to accelerate the rate at which these audits are carried out?

ANSWER: Over the next two years, the 150 new investigators will be hired, trained, and integrated. This will give BMCS a field staff of about 300. With the shift in the emphasis of the program to focus our efforts on the problem and high risk carriers, the Department can have a significantly increased impact on motor carrier safety without further increases in resources.

SENATOR ANDREWS: What enforcement action will DOT take with carriers who fail to remedy unsatisfactory safety ratings? Will DOT be using its authority under the 1984 Motor Carrier Safety Act to suspend the operations of carriers who pose an imminent threat to safety?

ANSWER: When a carrier is found to be in violation of the motor carrier safety regulations and fails to correct the deficiencies, DOT has the ability under the 1984 Act to impose significant civil penalties if serious deficiencies are identified. In addition, DOT can seek criminal penalties, including jail terms. If a carrier has an unsatisfactory rating and fails to correct it, DOT will begin by sending in a team of safety specialists to document the non-compliance with an enforcement audit of their records and facilities. In addition, if DOT finds a vehicle in use which poses an imminent threat to safety, DOT would use its authority to summarily take the vehicle out of service.

SENATOR ANDREWS: Is the Paperwork Reduction Act, as it has been implemented by OMB, preventing DOT from getting adequate information on carriers who have not been audited?

ANSWER: No. The Paperwork Reduction Act has not had an adverse effect on the gathering of information relative to the motor carrier industry. We believe our capabilities of obtaining and gathering information has improved, further, that it will continue to improve as a result of the State involvement in their Motor Carrier Assistance Program (MCSAP). Included in MCSAP is SAFETYNET, which is an automated management information system that allows for the exchange of motor carrier safety information among the participating States and between the States and the Department of Transportation.

REGULATION OF WATERBORNE COMMERCE

SENATOR ANDREWS: Should the ICC be abolished, will there be a mechanism for transferring its regulatory authority over interstate and foreign waterborne commerce to another federal agency?

ANSWER: The President's 1987 Budget proposal to sunset the ICC will not transfer the ICC's regulatory authority over interstate water carriers to any other agency. The Department's proposal to deregulate ICC-regulated water carriers which was sent to Congress in September, 1985, will be incorporated in the sunset proposal.

The ICC does not have jurisdiction over regulated shipping in foreign commerce nor over port-to-port shipping from the continental United States to the offshore states and territories or possessions (otherwise known as the domestic offshore trades). The Federal

Maritime Commission regulates this traffic under the Shipping Act of 1984, 46 U.S.C. app. 1701 et seq., and the Shipping Act of 1916, 46 App. U.S.C. 801 et seq. The ICC's jurisdiction extends to interstate water transportation including intercoastal traffic, service on the inland waterways and on the Great Lakes and intermodal service in the domestic offshore trades. However, as a result of numerous exemptions, ICC water carrier regulation applies to less than ten percent of interstate water transportation.

SENATOR ANDREWS: If the intent is to transfer such authority, which Federal agency will be delegated the regulatory role?

ANSWER: As noted above, such authority will not be transferred; it will be eliminated.

SENATOR ANDREWS: If not, please provide a full and detailed explanation for the decision not to continue the regulation of interstate and foreign waterborne commerce currently under the purview of the ICC.

ANSWER: As noted above, the ICC's jurisdiction does not extend to regulated shipping in the foreign commerce. Therefore such traffic would be unaffected by the sunset proposal.

The sunset proposal will include the "Interstate Water Carrier Deregulation Act of 1985", a draft bill sent to the Congress last September, which would end economic regulation of the domestic water carrier industry, which has nominally been regulated by the all U.S. domestic ton-mile freight movements. However, most water carriage has been granted a full or partial exemption from regulation, with the result that less than ten percent of domestic waterborne traffic is, in fact, subject to ICC regulation. Indeed, most of the operational and pricing efficiencies that constitute the objectives of regulatory reform efforts for other modes of transportation have already been realized in the domestic waterway industry.

Thus, the continued regulation of domestic water carriers is unwarranted.

SENATOR ANDREWS: Please provide a full and detailed explanation about how the proposal to terminate the ICC will affect the regulation of joint motor/ocean rates between the offshore states (Alaska and Hawaii) and the contiguous United States.

ANSWER: The Administration proposes to deregulate the trucking and domestic water carrier industries to the extent that regulatory authority is vested in the Commission. Presently, the Commission does not have jurisdiction over movements of exempt commodities (primarily livestock and agricultural products) moving in these trades when shipped under motor-water rates. See, 49 U.S.C. § 10526(6) and the decision of the Commission in Docket No. 37410, Petition for Declaratory Order Regarding Commission Jurisdiction over Voluntary Tariff Filings - Exempt Commodities in Alaskan Trade (served July 30, 1980). However, as to joint motor/ocean rates that are presently regulated by the Commission, that regulation would be terminated. The Federal Maritime Commission's jurisdiction over all-water (port-to-port) rates will not be affected by ICC sunset.

QUESTIONS SUBMITTED BY SENATOR ABDNOR

FEDERAL RAILROAD ADMINISTRATION - REDEEMABLE PREFERENCE SHARES

SENATOR ABDNOR: Why is the Department of Transportation holding up the funds for the section 505 railroad program?

ANSWER: In reviewing the language of the Continuing Appropriations Act for Fiscal Year 1986, which appropriated $33.5 million in section 505 funds, a question was raised as to the Department's ability to legally transfer these funds. Until September 30, 1985, which was the termination date prescribed for the section 505 program under Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, funds for the program flowed according to the process established by the statute. First, funds were appropriated to the Secretary of the Treasury. Second, to obtain funds for the program, the Secretary of Transportation issued and sold "fund anticipation notes" to the Treasury, the proceeds of which were deposited in a special fund established for the program. Finally, the Secretary of Transportation utilized the special fund to provide capital for rail projects. The 1986 DOT Act appropriated the $33.5 million to the Department of the Treasury for the acquisition of notes from the Secretary of Transportation and authorized the Secretary of Transportation to expend proceeds from the sale of such notes for uses authorized for the special fund. The Act, however, contains no specific authorization to issue "fund anticipation notes."

Also, a rescission proposed in the President's Fiscal Year 1987 Budget is pending against the appropriated funds; if not acted on by April 15, 1986, however, the rescission will expire.

To ensure that the Department acts within the scope of the law, we have addressed a letter to the Comptroller General asking the Comptroller General to give us an interpretation on whether the language included in the Continuing Appropriations Act would be sufficient to allow us to receive and obligate the appropriated funds. We have asked for a response by April 15.

SENATOR ABDNOR: Isn't the intent of Congress clear as far as the support for the program goes?

ANSWER: The Congressional support for the designated projects is clear. However, this is a unique program that requires action by both the Treasury and DOT, and there is a question of whether the language in the bill provides us with the full authority to act. Since the Comptroller General arbitrates these variances, we look forward to his opinion for guidance or a technical fix to the language by Congress.

SENATOR ABDNOR: Could applications begin to be processed while we get this technicality worked out?

ANSWER: While we have not formally received any applications for the designated funding, we are working and will continue to work with the applicants in reviewing their data and refining their applications as we would do if funds were already available.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

OST ACCOUNTING SYSTEM

SENATOR LAUTENBERG: As you know, the Accounting and Auditing Act of 1950 requires that the accounting systems used by federal agencies conform to certain standards and principles prescribed by the Comptroller General. The Federal Managers Financial Integrity Act of 1982 (FIA) reaffirms this policy and requires federal agencies to submit annual reports assessing whether their internal administrative and accounting systems meet the Comptroller General's minimum standards. These FIA reports are also to include plans for rectifying any "material weaknesses" identified in the relevant control systems in order to bring them into conformity with the Comptroller General's guidelines.

The Department of Transportation's FIA Report for 1985 indicates that the accounting system of the Office of the Secretary does not conform to the Comptroller General's minimum standards. This is, to say no more, surprising.

What are the specific defects in your existing system? Which of the Comptroller General's requirements do you fail to meet?

ANSWER: The main problem was a widespread reconciliation backlog. As a result, we are not able to determine with certainty the accuracy of internal and external financial reports. This backlog and the lack of reconciled financial reports caused us to be in nonconformance with the General Accounting Office Principles and Standards requirement for fund control.

SENATOR LAUTENBERG: By what date do you expect to have these deficiencies corrected?

ANSWER: The long term action necessary to correct the Office of the Secretary (OST) nonconformance is the implementation of a Departmental Accounting and Financial Information System (DAFIS) which is scheduled to begin in Coast Guard in late FY 1988, with OST scheduled to be implemented shortly thereafter. For the short term, we are implementing organizational changes to streamline operations, implementing procedures to improve internal controls, clearing the backlog, and automating the manual processes, where possible, to reduce the level of the current system's nonconformance.

DOT GENERIC ACCOUNTING SYSTEM

SENATOR LAUTENBERG: In Management of the United States Government, OMB states that DOT is "leading the development of a generic accounting system which will be suitable for use in a variety of departments." What is the current status of this project? By what date do you expect to have it completed?

ANSWER: The accounting system is being developed in two concurrent projects: (1) a Government-wide General Ledger (GWGL) and generic functional requirements; and (2) a single Department of Transportation (DOT) accounting and financial information system. Work on the Government-wide project is nearing completion with the general ledger nearing release. Agency comments on the first draft of the Government-wide General Ledger are currently being reviewed. The DOT system development is undergoing a cost/benefit evaluation of alternative approaches. This evaluation will be completed this year.

Our current project plan for the DOT system calls for a first site implementation in the U.S. Coast Guard by the end of Fiscal Year 1988. The remaining DOT accounting offices will be implemented on a phased basis as soon as possible.

SENATOR LAUTENBERG: Why, given the fact that OST's own financial management system has serious deficiencies, was DOT given the lead role in developing a prototype financial management system?

ANSWER: There is a clear need for standardization and modernization of Government accounting systems, including our own DOT systems. DOT strongly supports the effort to standardize and produce better systems. DOT is a large department with diverse activities and financial transactions which are representative of those in other civilian agencies. For these reasons, at OMB's request, DOT has made the commitment of time and quality staff to bring about the necessary improvements to government-wide accounting and our own systems.

QUESTION SUBMITTED BY SENATOR GORTON

Full - Funding Contract Negotiations

SENATOR GORTON: Mr. Burnley, I understand full-funding contract negotiations with Los Angeles, Miami and Seattle were suspended unilaterally by your Department last Friday. Could you explain why your Department took this action and how you expect to meet Congressional intent without further discussions with local officials?

ANSWER: The negotiations were suspended because the Department was informed that the House Appropriations Subcommittee was tying FY 86 supplemental appropriations for the Office of the Secretary to the issue of whether DOT would ignore the statutory requirements for the completion of an Environmental Impact Statement in Miami. Additionally, we have also been informed that the House Committee on Appropriations has ordered its Investigations Staff to look into a wide range of UMTA's administrative procedures. This action by the full committee is clearly intended to send the Department a message.

It is the Secretary's position that we ought to be allowed to work through the process and meet the statutory requirements without what was clearly punitive action by the House Subcommittee and the full House Committee. We are simply not going to ignore statutory requirements concerning the environmental process.

With respect to Seattle and Los Angeles, we certainly do not wish in any way to be punitive toward anyone, but the House Subcommittee took punitive action against the Secretary at the very same time that we were negotiating with Los Angeles officials and had scheduled meetings with Seattle officials.

We were told that the OST S&E account was going to be held for hostage for this fiscal year. The Secretary's position is that if the Department is going to be treated in this fashion, when we have had negotiations with all three cities going on for some time and are trying to ensure that Federal requirements are met, then we should stop the negotiations and attempt to work out the problems with the House Subcommittee. The same thing holds for the full House Committee. It is our position that these two matters should never have been linked with the Department's full-funding contract negotiations in the first place.

SUBCOMMITTEE RECESS

Senator ANDREWS. Our next hearing will be on Wednesday, April 9, room SD-138, for the Federal Railroad Administration and the National Railroad Passenger Corporation.

The subcommittee stands in recess.

[Whereupon, at 11:55 a.m., Wednesday, March 26, the subcommittee was recessed, to reconvene on Wednesday, April 9.]

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